

1

2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----x

5 THOMAS M. MOROUGHAN,

6 Plaintiff, Index No.  
12-CV-0512

7 -against-

8 The County of Suffolk, Suffolk County  
9 Police Department, Suffolk Detectives  
Ronald Tavares, Charles Leser, Eugene  
10 Geissinger, Nicholas Favatta, and  
Alfred Ciccotto, Detective/Sgt. William J.  
11 Lamb, Sgt. Jack Smithers, Suffolk Police  
Officers William Meaney, Enid Nieves,  
12 Channon Rocchio, and Jesus Faya and  
Suffolk John Does 1-10, The County of  
13 Nassau, Nassau County Police Department,  
Sgt. Timothy Marinaci, Deputy Chief of  
14 Patrol John Hunter, Inspector Edmund  
Horace, Commanding Officer Daniel  
15 Flanagan, Detective/Sgt. John DeMartinis,  
Nassau Police Officers Anthony D.  
16 DiLeonardo, Edward Bienz and John Does  
11-20.,

17 Defendants.

18 -----x

19 Nassau County Attorney's Office  
20 1 West Street  
Mineola, New York 11501

21 February 21, 2013  
22 2:00 p.m.

23 Rich Moffett Court Reporting Inc.  
24 114 Old Country Road, Suite 630  
Mineola, New York 11501  
25 (516) 280-4664

Examination Before Trial of the  
Defendant, HORACE WALLACE, pursuant to  
Court Order, before Rich Moffett, a  
Notary Public of the State of New York.

A P P E A R A N C E S:

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OFFICE OF THE COUNTY ATTORNEY  
Attorneys for Defendants  
One West Street  
Mineola, New York 11501  
BY: MICHAEL J. FERGUSON, ESQ.

1  
2  
3  
4 IT IS HEREBY STIPULATED AND  
5 AGREED by and between the attorneys  
6 for the respective parties herein,  
7 that the filing, sealing and  
8 certification of the within deposition  
9 be waived.

10 IT IS FURTHER STIPULATED AND  
11 AGREED that all objections, except  
12 as to the form of the question,  
13 shall be reserved to the time of the  
14 trial.

15 IT IS FURTHER STIPULATED AND  
16 AGREED that the within deposition  
17 may be sworn to and signed before  
18 any officer authorized to administer an  
19 oath with the same force and effect as  
20 if signed and sworn to before the  
21 Court.

22  
23 - oOo -  
24  
25

1 Inspector Edmund Horace

2 EDMUND J. HORACE, called as a  
3 witness, having been duly sworn by a  
4 Notary Public, was examined and  
5 testified as follows:

6 \* \* \*

7 EXAMINATION BY

8 MR. GRANDINETTE

9 Q Please state your full name for  
10 the record.

11 A Edmund J. Horace.

12 Q What is your address?

13 A 1490 Franklin Avenue, Mineola,  
14 New York.

15 Q Good afternoon, sir.

16 My name is Tony Grandinette. I  
17 represent Thomas Moroughan, the plaintiff in  
18 this civil rights action.

19 I'm going to be asking you a  
20 series of questions, today. Okay?

21 A Yes.

22 Q Sir, the first thing I'd like to  
23 do is show you what has been marked as  
24 Plaintiff's Exhibit 1. I'd ask you whether or  
25 not you had an opportunity to read either the

1                   Inspector Edmund Horace  
2           original complaint or the amended complaint in  
3           this case?

4                   A           I looked at it, briefly. I did  
5           not read it.

6                   Q           Do you need time, now, before we  
7           move forward to look at the complaint?

8                   A           No.

9                   Q           Did you feel that you had  
10          adequate opportunity to speak with your  
11          counsel and reviewing the complaint to  
12          understand what the allegations are?

13                  A           Yes.

14                               MR. FERGUSON: Note any  
15          objection.

16                  Q           Sir, prior to testifying here,  
17          today --

18                               MR. FERGUSON: Give me a second  
19          before you answer.

20                               That's a question I would not you  
21          to answer because he's asking you about  
22          conversations that we had and he  
23          mentioned a specific subject. So, that  
24          privileged. So that's why I need to  
25          slow down.

1                   Inspector Edmund Horace

2                   THE WITNESS: I got you.

3                   Q           Did you review any documents  
4 prior to testifying, today?

5                   A           With my attorney, I reviewed very  
6 briefly, you know.

7                   Q           Don't tell me what your attorney  
8 and you talked about. Tell me what documents  
9 you reviewed.

10                  A           Really nothing. I reviewed a --  
11 very briefly, the complaint -- very very  
12 briefly. And that's, basically, about it.

13                  Q           Do you want to review any other  
14 documents prior to testifying?

15                               MR. FERGUSON: Note my objection.

16                               What other documents are you talking  
17 about?

18                  Q           Would you like to review any  
19 documents involved in this case related to  
20 your activity in this case prior to giving  
21 testimony?

22                  A           No.

23                  Q           Did you, sir, personally prepare  
24 any documents with respect to your involvement  
25 in this case?

1 | Inspector Edmund Horace

3 Q Did you take any notes -- either  
4 contemporaneously with your activities in the  
5 case or subsequent to your activities in the  
6 case?

8 Q Did you write any letters  
9 regarding this case?

11 Q Did you send any e-mails  
12 regarding your involvement in this case?

14 Q Did you receive any  
15 correspondence from anyone regarding this  
16 case?

18 (Whereupon, Mr. Mitchell entered  
19 the room.)

22 MR. MITCHELL: No, that's all  
23 right. Don't ask anything important  
24 while I'm gone.

1                   Inspector Edmund Horace

2                   worry about that.

3                   Q           You didn't receive any  
4                   correspondence and you did receive an e-mail?

5                   A           Yes.

6                   Q           Who did you receive an e-mail  
7                   from?

8                   A           From Chief Hannon.

9                   Q           When did you receive that e-mail  
10                  from Chief Hannon?

11                  A           I think about 4:30 in the morning  
12                  on the morning of the incident.

13                  Q           Do you recall the subject matter  
14                  of that e-mail.

15                  A           Very briefly. Short e-mail. I  
16                  it had the names of the taxi cabdriver as well  
17                  as the two police officers. I don't remember  
18                  anything else, really.

19                  Q           Perhaps, I'm misunderstanding  
20                  your testimony.

21                               Did Chief Hannon send you the  
22                  e-mail containing the names of the cabby and  
23                  the two cops, or did you e-mail her with that  
24                  information?

25                  A           She sent it to me.



1                   Inspector Edmund Horace

2                   Q       Do you know how she obtained that  
3                   information?

4                   A       I don't know.

5                   Q       Was that from her official e-mail  
6                   work address or was it a personal e-mail  
7                   address, if you know?

8                   A       I don't remember.

9                   Q       Did you respond to it?

10                  A       No.

11                  Q       Did you ever respond to it?

12                  A       No.

13                  Q       Did it call for a response?

14                  A       No.

15                  Q       Did you receive or make any  
16                  telephone calls concerning the events of  
17                  February 27, 2011?

18                  A       Yes.

19                  Q       They were pertaining to this  
20                  case?

21                  A       Yes.

22                  Q       When did you receive the phone  
23                  call, and from whom?

24                  A       I received the phone call at  
25                  about 1:50 in the morning.

1                                   Inspector Edmund Horace

2                   Q           Was that to put you on notice of  
3           the shooting?

4                   A           Yes.

5                   Q           Was that from Chief Hannon?

6                   A           No.

7                   Q           Did you receive any other  
8           incoming phone calls about this case?

9                   A           Well, I received one phone call.

10                  Q           Who was that from?

11                  A           From our -- the police operations  
12           desk.

13                  Q           Do you know who that was, in  
14           particular, or just --

15                  A           I don't remember.

16                  Q           We'll get back to that.

17                               Other than that incoming call,  
18           did you receive any other incoming calls  
19           regarding this case that night into the  
20           following day?

21                  A           A few. I don't remember all of  
22           them.

23                               MR. FERGUSON: Night into the  
24           following day. He said the calm was at  
25           1:50 a.m. I don't know what you mean by

1                   Inspector Edmund Horace

2                   the following day.

3                   MR. GRANDINETTE: We'll get into  
4                   that later.

5                   Q           But, the 1:50 a.m. call was the  
6                   one that put you on notice from operations?

7                   MR. FERGUSON: Approximately.

8                   A           Yes.

9                   Q           Where did you receive that call;  
10                  at your home phone, an issued cell phone?

11                  A           Cell phone.

12                  Q           Is that cell phone your personal  
13                  cell phone or is that a cell phone issued by  
14                  the Nassau County Police Department for your  
15                  official duties?

16                  A           Issued.

17                  Q           In that Nassau County Police  
18                  Department? Could you please put the number  
19                  on the record?

20                  A           Yes.

21                  Q           Was that?

22                  A           316-2805.

23                  Q           That's 516?

24                  A           Yes.

25                  Q           Would it be fair to say that with

1                   Inspector Edmund Horace

2           respect to any phone calls you received or  
3           made involving your involvement in this case;  
4           they were made to and from that cell phone?

5                   A           Yes.

6                   Q           So that you cell phone records  
7           would accurately record better than your  
8           memory from whom you received the call, how  
9           long you were on the call, to whom you placed  
10          the call, and when, etc., correct?

11                  A           Yes.

12                  Q           Do you have a second cell phone?

13                  A           Yes.

14                  Q           Is that second cell phone a  
15          personal cell phone or is that a  
16          department-issued phone?

17                  A           Department.

18                  Q           Did you utilize is cell phone at  
19          all that evening?

20                  A           Yes.

21                  Q           Could I have that number, please?

22                  A           516 area code; 404-0110.

23                  Q           Do you have any independent  
24          recollection whether or not you received and  
25          made calls regarding your involvement in this

1                   Inspector Edmund Horace

2           case on that number as well?

3           A           I believe so.

4           Q           Just real quickly. Is there any  
5           reason, in particular, that you've been issued  
6           two numbers?

7           A           One number is a regular cell  
8           phone. And the over number was a Blackberry  
9           with a cell phone.

10          Q           The distinction being that the --  
11          one of the numbers is -- the 404-0110 is the  
12          Blackberry?

13          A           Yes.

14          Q           You can just text and e-mail and  
15          those things kind of things?

16          A           Yes.

17          Q           So, for example, when you said  
18          you received an e-mail at 4:00 a.m., that was  
19          on your Blackberry?

20          A           Yes.

21          Q           Other than the evening in  
22          question going into the following day when you  
23          eventually left the Second Precinct --

24                   MR. FERGUSON: He didn't leave  
25           the Second Precinct the following day.

1                   Inspector Edmund Horace

2                   I have to object.

3                   Q           Let me ask you this. Generally,  
4                   can you tell me how long you were involved in  
5                   the case on February 27, 2011 -- when did you  
6                   involvement end?

7                   A           I think it was about -- around  
8                   9 o'clock in the morning. -- is when it ended  
9                   -- 9 or 9:30 in the morning.

10                   MR. GRANDINETTE: I hate to do  
11                   this to you --

12                   MR. FERGUSON: On February 27th?

13                   THE WITNESS: On February 27th.

14                   MR. GRANDINETTE: I just have to  
15                   go pick up the deposition book. I'll be  
16                   right back.

17                   Q           At 9 o'clock in the morning,  
18                   where were you when your involvement ended?

19                   A           I was leaving that Precinct.

20                   Q           The Second Precinct in Suffolk.

21                   A           I think I was at. The Precinct I  
22                   was at. I'm not sure of the Precinct number.

23                   Q           Now, since the date of the  
24                   incident after leaving at 9 o'clock or  
25                   thereabouts the Second Precinct in Suffolk

1                   Inspector Edmund Horace  
2       County, did you make any telephone calls  
3       concerning this case?

4               A        I think the last phone call I  
5       made was to the guy that had the duty after  
6       me -- just a briefing, and that was it --  
7       about that time.

8               Q        That would be on or about the  
9       27th, then?

10              A        It would be on the 27th.

11              Q        After the 27th, you're confident  
12       to today's date you never made another phone  
13       call concerning this case?

14              A        No.

15              Q        Same question with respect to  
16       correspondence. Did you write or receive any  
17       correspondence concerning is case after your  
18       involvement ended about 9:00 a.m. on the 27th?

19              A        No.

20              Q        Same thing with the e-mails. Did  
21       you receive or did you send any e-mails  
22       regarding this case?

23              A        No.

24              Q        That is, of course, with the  
25       singular exception that -- we both realize

1                   Inspector Edmund Horace

2           that you were interviewed by IAP, right?

3                   A           Correct.

4                   Q           So, in between 9 o'clock in the  
5           morning leaving the Second Precinct and your  
6           interview with IAB, you've had absolutely no  
7           police contact -- you've had no contact with  
8           any law enforcement official from Nassau  
9           County, orally, via telephone, in writing,  
10          e-mail, or correspondence, correct?

11                  A           Correct.

12                  Q           I know that's a mouthful. I'm  
13          trying to save some time.

14                               I would ask you the same question  
15          in an even broader sense with respect to the  
16          Suffolk County Police Department. Did you  
17          ever have any communication after leaving the  
18          Second Precinct on February 27, 2011, on or  
19          about 9:00 a.m. with any member of the Suffolk  
20          County Police Department?

21                  A           No.

22                  Q           Were you ever interviewed by any  
23          other Suffolk County Police IAB unit?

24                  A           No.

25                  Q           Same topic. Communication with



1                   Inspector Edmund Horace  
2           Suffolk County Police Officers -- and we will  
3           get into more detail with that.

4                   By police officer, I'm including  
5           every rack in the chain of command up to the  
6           Commissioner of Police. Okay? When I use  
7           that term, I use it loosely.

8                   Did you have any written  
9           communications regarding your involvement in  
10          this case, either correspondence or e-mail on  
11          the 27th with any member of the Suffolk County  
12          Police Department?

13                  A           No.

14                  Q           How about this telephone  
15          communication?

16                  A           No.

17                  Q           Was your communication, then,  
18          with the Suffolk County Police Department and  
19          its membership limited to the 27th, and was it  
20          limited to oral communication?

21                  A           Yes.

22                  Q           Personal background. Could you,  
23          very briefly, sir, just tell me a little bit  
24          about your personal background; are you  
25          married with children?

1 Inspector Edmund Horace

2 A Married; two grown sons.

3 Q Your educational background?

4 A I have a Bachelor's degree in  
5 business, MBA from St. John's University.

6 Q You said a Bachelor's?

7 A Bachelor's in science.

8 Bachelor's of Science in Business

9 Administration and MBA -- Master in business  
10 administration at St. John's.

11 Q When did you graduate with your  
12 MBA?

13 A Mid 90s -- 95.

14 Q Any military service?

15 A I was in the Marine Corps.

16 Q From when to when?

17 A 71 through 73.

18 Q Honorable discharge?

19 A Yes.

20 Q Thank you for your service.

21 Volunteer firefighter, ever?

22 A Years ago. Many years ago.

23 Q Where?

24 A South Hempstead Fire Department.

25 Q Were you ever an EMT?

1                   Inspector Edmund Horace

2                   A           Many years ago.

3                   Q           Certified?

4                   A           It's been lapsed for many years.

5                   Q           Can you give me a guesstimate;  
6           when you say many years ago --

7                   A           In the 90s.

8                   Q           Did you ever hold any other job?  
9           I'm not talking about when you were a kid and,  
10          you know, even working your way through  
11          college. But, other than a member of Nassau  
12          County Police Department?

13                  A           Yes.

14                  Q           Starting at that point, could you  
15          bring me to when you started with the PD and  
16          then briefly let's go through your promotional  
17          career history?

18                  A           Start out in the New York City  
19          Police Department; November of 1973 I started.

20                  Q           Okay.

21                  A           Came out here in January of 79.

22                  Q           So, did you attend when you made  
23          that transfer -- first of all when you came  
24          out here in 79 -- when you left NYPD, were you  
25          a patrolman?

1 Inspector Edmund Horace

2 A Yes.

3 Q You started here as a patrolman?

4 A Yes.

5 Q Did you go to NYPD academy?

6 A Yes.

7 Q Did you re-train at the Nassau

8 County PD academy?

9 A Yes.

10 Q Six months?

11 A Close -- five months.

12 Q Please, continue from January of

13 79?

14 A After I got out of the academy, I  
15 was a police officer in the Fourth Precinct  
16 starting around May of 79.

17 Q Okay.

18 A I made Sergeant, I believe, 87.

19 Q Okay. Was that as a result of  
20 taking the civil service test?

21 A Yes.

22 Q What Precinct were you assigned  
23 as a Sergeant?

24 A I was briefly assigned to the  
25 Sixth Precinct.

1                           Inspector Edmund Horace

2                   Q       Yes.

3                   A       For about 3 or 4 months.

4                           Then I was reassigned to the  
5       communications bureau as a Sergeant.

6                   Q       How long did you remain there?

7                   A       In the communications bureau, I  
8       was probably on and off for a lot of my  
9       career.

10                  Q       Then, were you simply promoted  
11       within that bureau to different ranks leading  
12       up to your assignment as Chief?

13                  A       Yes.

14                  Q       If we could, from 87 to today.

15                  A       I believe about 1992 I made  
16       lieutenant.

17                  Q       At that time you were with  
18       communications?

19                  A       Yes. I was involved with a  
20       special project. My expertise is in  
21       technology. I've been involved with  
22       technology for quite a few years. So, 87, I  
23       was just starting with a computer dispatch  
24       project -- I'm sorry -- 92 -- computer aided  
25       dispatch project in CB. So, I made lieutenant

1                   Inspector Edmund Horace

2           and I stayed there in 1992.

3                   Around the year 2000 as a  
4           lieutenant, I went back to the Fourth Precinct  
5           as a lieutenant.

6                   Q           Okay.

7                   A           And year 2003, I believe, I made  
8           Captain. I went back to the communications  
9           bureau as a Captain in 2003.

10                  Q           Okay.

11                  A           I think I was a Deputy CO there.

12                           2004, I made Deputy Inspector. I  
13           stayed in CB. There, I was very much involved  
14           with a lot of technology projects. I was  
15           involved with rolling out a new radio system  
16           that we went live with. Another computer  
17           aided dispatch system, records management  
18           system. And, also, I'm involved with --  
19           another major special project was -- we moved  
20           our communications bureau to -- new public  
21           safety center in Westbury.

22                           I was involved with a lot of high  
23           level special projects from around that time  
24           almost until about a year or so ago.

25                  Q           A year or so ago meaning --

1 Inspector Edmund Horace

2 A What did I say 2003?

3 Q You said --

4 A I was a Deputy Inspector.

5 Q You said 2004.

6 A Okay.

7 I think around 2007 I made  
8 Inspector. I was still involved with major  
9 projects. Somewhere during that time, I think  
10 I was no longer Deputy CD. Involved with the  
11 other projects. I forget when that ended. In  
12 2007 or 2008 I was the Commanding Officer at  
13 the Information Technology Bureau, which is  
14 our IT center in the Police Department, as  
15 well as special projects coordinator for all  
16 these projects.

17 Q What year was that?

18 A Around 2008, I believe.

19 Q Would it be fair to say that's  
20 the title you held on February 27, 2011?

21 A Yes. I was an Inspector.

22 Q Captain, Deputy Inspector and  
23 Inspector were promotions as opposed to civil  
24 service tests, correct?

25 A Captain is civil service test.

1                   Inspector Edmund Horace  
2           Deputy Inspector and Inspector are promotions.

3                   Q           From the Commissioner of Police?

4                   A           Yes.

5                               I made Chief last spring.

6                   Q           2012?

7                   A           Deputy Chief.

8                   Q           That was after this event.

9                               Now 2012 you were appointed  
10          Deputy Chief by which Commissioner?

11                  A           Current Commissioner.

12                  Q           Who is that?

13                  A           Commissioner Daly.

14                  Q           The prior commissioner in 2007?

15                  A           Mulvey, I believe.

16                  Q           As an inspector holding the title  
17          of Chief of the Communications Bureau on  
18          February 27th, 2011, did part of your  
19          duties --

20                               MR. FERGUSON:   Was that the IT  
21          Bureau or the Communications Bureau?

22                               THE WITNESS:    I was the  
23          Commanding Officer of ITU at that time.

24                  Q           On that date and at that time,  
25          did part of your duties encompass being



1                   Inspector Edmund Horace  
2       assigned to the Deadly Force Response Team?

3               A       I don't know how to answer that  
4       question.

5                   MR. FERGUSON:   If you can't  
6       answer it, you can't answer it.

7               A       I had County duty that night; is  
8       that what you mean?

9               Q       No.

10                   Based upon your position and  
11       given your title, did part of your duties and  
12       responsibilities include being assigned to a  
13       unit called the Deadly Force Response Team?

14              A       On that night, I had County duty.  
15       Once a month you get County duty as a Deputy  
16       Inspector/Inspector.   I had County that night.  
17       I was on what we call County duty.

18              Q       What does that mean?   What are  
19       you were duties and responsibilities as a  
20       Deputy Inspector or Inspector when you're on  
21       County duty?

22              A       If something happens, you might  
23       get a phone call depending on how serious it  
24       would be.   That was the phone call I got.

25              Q       Had you ever received any

1                   Inspector Edmund Horace  
2           training with respect to duties and  
3           responsibilities to participate in something  
4           called a Deadly Force Response Team prior to  
5           February 27th, 2011?

6                   MR. FERGUSON:   You mean other  
7           than all his police training?

8                   That's why --

9                   MR. GRANDINETTE:   Mike, if you  
10          have an objection, say you object.

11                  MR. FERGUSON:   I have an  
12          objection.

13                  Are you talking about something  
14          specific?

15                  MR. GRANDINETTE:   State your  
16          objection.

17                  MR. FERGUSON:   You're cutting me  
18          off.  I don't know if the record is  
19          clear.

20                  I'm saying -- are you asking for  
21          specific training for that, other than  
22          all his police training?

23                  MR. GRANDINETTE:   Okay.  Your  
24          objection is noted.

25                  Could you please read back the

1                   Inspector Edmund Horace

2                   question.

3                   (Whereupon, the last question was  
4                   read back by the court reporter.)

5                   MR. FERGUSON: Note my objection.

6                   A           I received some sort of an  
7                   overview of what a Deadly Force team is all  
8                   about.

9                   I don't understand what you mean  
10                  by training.

11                  Q           When did you receive this? How  
12                  would you describe it? What would you call  
13                  it?

14                  A           I wouldn't remember when I  
15                  received it, but there are executive  
16                  briefings, periodically. I wouldn't remember  
17                  when I got it or anything like that.

18                  Q           So, you believed that you may  
19                  have received some information as opposed to  
20                  training, or was it information and training  
21                  on a unit called the Deadly Force Response  
22                  Team?

23                  A           It was information.

24                  Q           So, when you say "Information,"  
25                  was that information that was printed -- that

1                   Inspector Edmund Horace  
2           was disseminated to you and other Deputy  
3           Commissioners or Inspectors?

4                   A           I don't remember.

5                   Q           When you had a formal training,  
6           sir, in the course of your very lengthy and  
7           decorated career, would it be routine for you  
8           to have -- the Police Department to keep a  
9           record of that?

10                  A           I believe so.

11                  Q           I'll show you what has been  
12           marked as Plaintiff's Exhibit -- it hasn't  
13           been marked, yet. I ask you to take a look at  
14           --

15                               MR. GRANDINETTE: If I could have  
16           this marked as Plaintiff's Exhibit 11.

17                               (Plandtiff's Exhibit 11 marked)

18                  Q           If you could just flip through  
19           this. Would it be fair to say that this  
20           Document reflects your training, topic, the  
21           title, and the date?

22                  A           I wouldn't know.

23                  Q           Okay.

24                               Let's take a second. Look at the  
25           top. It says member. It says Edmund J.

1                                   Inspector Edmund Horace

2           Horace, correct?

3                   A           Yes.

4                   Q           Is that your correct ID and  
5           shield number?

6                   A           Yes.

7                   Q           Now, looking at this -- starting  
8           with June 2nd, 2011, it has executive  
9           briefing -- that's something that you had just  
10          mentioned; that you might have received  
11          training or reading materials in executive  
12          briefing, right?

13                  A           Yes.

14                  Q           Is that an actual example of what  
15          you just testified to shortly before?

16                               MR. FERGUSON:  Objection.

17                  Q           About an executive briefing.

18                               MR. FERGUSON:  Do you understand  
19          what he is asking?

20                               THE WITNESS:  Not really.

21                  Q           You said, earlier, that had you  
22          might have received some information in  
23          written form about a Deadly Force Response  
24          Team.  And you're not sure if you did, when  
25          you did.  It could have been in the form of an

1                   Inspector Edmund Horace

2       executive briefing, which you received from  
3       time to time, correct?

4               A           I said from time to time I get  
5       executive briefing. I don't remember saying  
6       anything about a written form.

7               Q           At any rate, what I'm asking you  
8       is the very first training record on this --  
9       of you contained in this document -- says on  
10      June 2, 2011 you were in an executive briefing  
11      regarding RMS overview, correct?

12              A           Yes.

13              Q           My simple question to you is --  
14      this is an example of you having the Nassau  
15      County Police Department keeping a record -- a  
16      written record -- of you being involved in  
17      this type of executive briefing, right?

18                       MR. FERGUSON: Note any  
19      objection. Which type of executive  
20      briefing are you talking about?

21              Q           Did you understand my question or  
22      no?

23              A           No, I don't understand it.

24              Q           Did you go to an executive  
25      briefing for RMS overview?

1                   Inspector Edmund Horace

2                   A           I wouldn't remember. I can't  
3 remember whether or not I went to that.

4                   Q           Do you have any reason to dispute  
5 that your training record identified here as  
6 Plaintiff's Exhibit 11 provided to me by the  
7 County of Nassau is inaccurate?

8                   MR. FERGUSON: What is your  
9 question? Is this accurate or  
10 inaccurate? He says he doesn't know.

11                  Q           I'm asking you, do you have any  
12 reason to believe that this is inaccurate --  
13 your training record?

14                  A           I don't know.

15                  Q           Do me a favor, then. Take a  
16 couple of minutes. Go through it from start  
17 to finish, and tell me -- after you review it  
18 -- if you believe it might be inaccurate?

19                  MR. FERGUSON: He said he didn't  
20 know.

21                  MR. GRANDINETTE: I understand  
22 that. I'm asking him, now, to look at  
23 it.

24                  A           Okay.

25                  Q           Having reviewed it, I'll ask you

1                   Inspector Edmund Horace  
2           again. Do you have any reason to believe that  
3           that document may be inaccurate?

4                   A           It may be inaccurate?

5                   Q           Right.

6                   A           I wouldn't know whether it's  
7           inaccurate or inaccurate.

8                   Q           Why wouldn't you know whether  
9           it's accurate or inaccurate?

10                   MR. FERGUSON: Note any  
11           objection.

12                   Q           Is there anything in there that  
13           suggests to you that it doesn't accurately  
14           reflect what your training has been?

15                   MR. FERGUSON: Arguing with the  
16           witness over something he doesn't know.

17                   A           All it shows me is a list of  
18           courses and my name on top. I don't know  
19           whether it's accurate or inaccurate.

20                   Q           Would you agree with me having  
21           reviewed it that there is no record of you  
22           having either an executive briefing or any  
23           other form of training -- being trained with  
24           respect to a Deadly Force Response Team?

25                   A           I don't know if there's a record.



1                   Inspector Edmund Horace

2                   Q       Do me a favor. Look at it,  
3                   again, briefly. See if there's anything in  
4                   there that reflects a training for a DFR or  
5                   Deadly Force Response Team.

6                   A       I see nothing there with respect  
7                   to Deadly Force Response Team.

8                   Q       With respect to --

9                   A       It doesn't say it. I don't see  
10                  the words Deadly Physical Force Response Team  
11                  in this.

12                  Q       Do you see any title that would  
13                  reflect training in what you know to be Deadly  
14                  Physical Force Response Team?

15                  A       I wouldn't know.

16                  Q       Looking at the date April 13,  
17                  2010, it looks like you received .5 credit  
18                  hours of off-duty encounters training.

19                  A       Yes.

20                  Q       Do you recall that training?

21                  A       No.

22                  Q       Do you recall anything at all  
23                  about that training?

24                  A       No.

25                  Q       Looking at November 18, 2003,

1                                   Inspector Edmund Horace

2           Police Ethics and Motivation; do you recall  
3           anything about that training?

4                   A           No.

5                   Q           Looking at the second page -- the  
6           date of 3/19/2002, a 31 1/2 hour course in  
7           supervisory in-service training; do you have  
8           any recollection of that?

9                   A           No.

10                  Q           Looking at 12/1/2001, a half  
11           credit hour in peer support, and again on  
12           11/12/2001, a month earlier, a half an hour  
13           of .5-hour course in peer support; do you have  
14           any recollection of those training courses?

15                  A           No.

16                  Q           On page 3 at 5/9/2001, a half  
17           credit hour training in Miranda warnings; do  
18           you have any recollection of that training?

19                  A           No.

20                  Q           Now, what I'd like to ask you to  
21           do is take a look at, now, sir is what will be  
22           marked as Plaintiff's Exhibit Number 12.

23                               (Pleading's Exhibit 12 marked)

24                  Q           Sir, this exhibit is also Bates  
25           stamped for the record, 207 through 210.

1                   Inspector Edmund Horace  
2       You'll see that I've highlighted sections.  
3       I'd like to review the highlighted section  
4       with you.

5                   MR. FERGUSON:   When you say Bates  
6       stamped; that 207 to 210; those are the  
7       pages from the Internal Affairs report.

8                   MR. GRANDINETTE:   Correct.

9                   MR. FERGUSON:   That's not a Bates  
10      stamps.   It's just a number from the  
11      Internal Affairs report.

12                  MR. GRANDINETTE:   I'm referring  
13      to that.

14                  MR. FERGUSON:   Okay.   I didn't  
15      know -- I thought Bates stamps was a  
16      specific thing.   But, this is not a  
17      Bates stamp.

18                  MR. MITCHELL:   In other words,  
19      that's page 207 through --

20                  MR. GRANDINETTE:   Page 207  
21      through 210.

22                  MR. MITCHELL:   Bates stamps are  
23      things that you put on.

24                  MR. FERGUSON:   That's all right.

25                  MR. GRANDINETTE:   So, we're all

1                   Inspector Edmund Horace

2                   clear, it's got stamped numbers on it.

3                   Q           Have you ever seen this document  
4           before?

5                   A           Yes.

6                   Q           When?

7                   A           Just last week.

8                   Q           Under what circumstances?

9                   A           I discussed it with my attorney.

10                  Q           Don't tell me what you said with  
11           your attorney. Prior to last week, do you  
12           recall seeing it?

13                  A           I don't recall.

14                  Q           Did you ever receive any training  
15           with respect to these specific pages?

16                  A           I don't recall.

17                  Q           Now, this appears to be -- would  
18           you agree with me -- a department procedure --  
19           a written departmental procedure issued by  
20           Acting Commissioner Thomas C. Krumpster on  
21           August 5, 2011?

22                  A           Yes.

23                  Q           If we look at what says Policy --  
24           and you read along with me -- it says "The  
25           policy of the Police Department is to conduct

1                   Inspector Edmund Horace

2           administrative investigations of incidents  
3           involving the use of deadly physical force by  
4           members of the department. The Deadly Force  
5           Response Team has been established as part of  
6           the administrative response to these  
7           incidents, correct?

8                   A           Correct.

9                   Q           The purpose of this  
10          administrative procedure, it says, is to  
11          establish procedures for the administrative  
12          response to deadly physical force incidents  
13          involving members of the department, correct?

14                  A           Correct.

15                  Q           Then definitions -- it defines  
16          the Deadly Physical Response Team as a team  
17          established to respond to incidents involving  
18          the use of deadly physical force by a member  
19          of the department in order to gather  
20          information for an administrative report to  
21          the Commissioner of Police, correct?

22                  A           Correct.

23                  Q           It says the Duty Chief will be  
24          designated as the team coordinator and will  
25          determine the level of response as to one of

1                   Inspector Edmund Horace

2           the following, correct?

3                   A           Correct.

4                   Q           It outlines a full-team response  
5           as a Deputy Chief, an administrative officer,  
6           or Deputy Inspector, a Commanding Officer from  
7           the police academy or his designee, and a  
8           supervisor from the homicide bureau, correct?

9                   A           Correct.

10                  Q           So, apparently, you would agree  
11           with me, that the purpose of this  
12           administrative guideline is to gather  
13           information for an administrative report to  
14           the Commissioner of Police?

15                  A           Yes.

16                  Q           It certainly is a very very  
17           serious subject matter because it involves the  
18           use of deadly physical force by a member of  
19           the Police Department, right?

20                  A           Yes.

21                  Q           It defines deadly physical force  
22           as a means of physical force, which under the  
23           circumstances in which it was used is readily  
24           capable of causing death or causing serious  
25           physical injury, correct?

1                   Inspector Edmund Horace

2                   A           Yes.

3                   Q           In this case, we know that there  
4                   was a discharge of five rounds from Police  
5                   Officer DiLeonardo's gun into the windshield  
6                   of the car occupied by two civilians, which  
7                   clearly falls within this category as a means  
8                   of force, which under the circumstances is  
9                   capable of causing death or serious physical  
10                  injury, correct?

11                  MR. FERGUSON:   Just a correction.  
12                  There wasn't five rounds into the  
13                  windshield.

14                  MR. GRANDINETTE:   There were five  
15                  rounds and the gun discharged -- three  
16                  of which entered the car.

17                  Q           Irrespective of the specifics,  
18                  are we in agreement -- would you agree with me  
19                  that the incident on February 27, 2011, fell  
20                  within -- clearly the definition of deadly  
21                  physical force?

22                  A           I don't remember how many rounds.  
23                  But, yes.

24                  Q           You shoot a gun and this is the  
25                  kind of circumstance we're talking about,

1 Inspector Edmund Horace

2 right?

3 A Yes.

4 Q Now, according to this  
5 administrative guideline, there could be a  
6 full-team response or limited team response,  
7 right?

8 A Yes.

9 Q In this particular instance,  
10 there was a full-team response, correct?

11 A Yes.

12 Q Now, if you would turn to page  
13 209 and go to section B.

14 MR. FERGUSON: Page 3.

15 Q It's under B. It's highlighted  
16 for you. It says "Incidents occurring within  
17 New York City, Suffolk County, or Westchester  
18 County.

19 You would agree with me that the  
20 preceding pages give a specific procedure for  
21 incidents which happen within the County of  
22 Nassau. And then if we flip to page 209  
23 subdivision B, it gives specific procedural  
24 direction for incidents occurring within the  
25 County of Suffolk, correct?



1                   Inspector Edmund Horace

2                   A           Yes.

3                   Q           On the night in question, you  
4           didn't have any -- you don't recall any  
5           specific training or have any specific  
6           knowledge of these procedural guidelines,  
7           correct?

8                   A           I did not have specific  
9           knowledge.

10                  Q           So, would it be fair to say,  
11           then, that you didn't know what your duties  
12           and responsibilities, procedurally,  
13           pursuant to this administrative order?

14                               MR. FERGUSON: Note my objection.

15                  A           Can you say that, again?

16                  Q           Sure. Because you weren't  
17           familiar with them, then you didn't know what  
18           your administrative duties and  
19           responsibilities were pursuant to this order?

20                               MR. FERGUSON: Note my objection.

21                  A           My duties, according to this  
22           order, were to assist the Duty Chief.

23                  Q           At the time that you responded,  
24           you weren't familiar with this administrative  
25           order, correct?

1                   Inspector Edmund Horace

2                   MR. FERGUSON: Note my objection.

3                   A           No.

4                   Q           It would be fair to say, then,  
5                   since you weren't familiar with it, you didn't  
6                   know what your duties and responsibilities  
7                   were pursuant to the terms of this  
8                   administrative order?

9                   MR. FERGUSON: Note my objection.

10                  A           My duties were to take directions  
11                  as the Duty Chief.

12                  Q           Would it be fair to say that  
13                  because you weren't familiar with this  
14                  administrative order you didn't have any  
15                  personal knowledge about what your duties and  
16                  responsibilities were pursuant to this  
17                  specific administrative order?

18                  MR. FERGUSON: Note my objection.

19                  Logically, what you're saying  
20                  doesn't follow. You don't have to have  
21                  read that to know that --

22                  MR. GRANDINETTE: Mike, please.

23                  MR. FERGUSON: I'm trying to put  
24                  my objection on the record.

25                  He knew what his duties were.

1 Inspector Edmund Horace

2 MR. GRANDINETTE: Don't make  
3 speaking objections.

4 MR. FERGUSON: The reason I'm  
5 stating my objection is because you're  
6 logically -- your question is logically  
7 flawed.

8 MR. GRANDINETTE: Sir, could you  
9 step out for a minute?

10 MR. FERGUSON: Ask a question.

11 Q So, you acknowledge that you  
12 weren't familiar with the administrative  
13 order, right?

14 A I didn't have it in front of me  
15 to read it.

16 Q And you hadn't read it prior to  
17 this time?

18 A I don't remember if I read it  
19 prior to this.

20 Q You didn't have any knowledge of  
21 what the order required you to do, right?

22 MR. FERGUSON: Note my objection.

23 A I had an idea, but not specific  
24 knowledge.

25 Q Because you didn't have specific

1                   Inspector Edmund Horace  
2           knowledge, would it be fair to say that you  
3           weren't familiar with the duties and  
4           responsibilities of the written order?

5                   MR. FERGUSON: Note my objection.

6                   A           Yes.

7                   Q           Since that time, you've had an  
8           opportunity to read it, right?

9                   A           Yes.

10                  Q           Would it be fair to say that at  
11           this juncture you're familiar and comfortable  
12           with the administrative duties and  
13           responsibilities of the Deadly Force Response  
14           Team?

15                  A           Yes.

16                  Q           If we look at the first section,  
17           it says "The member of the department. The  
18           member of the department holds an obligation  
19           to notify his desk officer when he's used  
20           deadly physical force, right?

21                  MR. FERGUSON: Where are you  
22           reading, now?

23                  MR. GRANDINETTE: B-1.

24                  MR. FERGUSON: Which page are we  
25           on?

1 Inspector Edmund Horace

2 MR. GRANDINETTE: Page 209.

3 MR. FERGUSON: I thought we were  
4 on 207.

5 MR. GRANDINETTE: 209 B-1.

6 Q These are the regulations or the  
7 administrative guidelines for incidents  
8 involving the use of deadly force in Suffolk  
9 County.

10 MR. FERGUSON: This is the  
11 procedure. That's what you're reading.  
12 Procedure. Go ahead.

13 A Okay.

14 Q Number 1, you would agree with me  
15 that the member of the department is to notify  
16 the Precinct that he used deadly force -- he  
17 is or she, right?

18 A That's what it says.

19 Q Thereafter, the desk officer  
20 assigns a caretaker supervisor to respond and  
21 assume responsibility of the primary care of  
22 the members involved, correct?

23 A Yes.

24 Q It says, "Note: The caretaker  
25 supervisor should be a supervisor from the

1                   Inspector Edmund Horace

2           member's division, if one is available,  
3           correct?

4                   A           Yes.

5                   Q           If the incident involves the  
6           discharge of a firearm -- as it did here --  
7           the desk officer assigns a supervisor to  
8           respond, correct?

9                   A           Yes.

10                  Q           Now, in this particular case, we  
11           know that DiLeonardo did, in fact, call the  
12           Third Precinct to notify his command, and his  
13           command thereafter notified Sergeant Marinaci,  
14           who responded, a Sergeant from the Third  
15           Precinct, correct?

16                  A           Marinaci was the caretaker.

17                  Q           Marinaci was the assigned  
18           caretaker supervisor from the third Precinct,  
19           correct?

20                               MR. MITCHELL: He just said that.

21                  A           Correct.

22                               (Plaintiff's Exhibit 13 marked)

23                               MR. MITCHELL: Tony, with stuff  
24           like this -- something that you marked  
25           before -- you're going to mark it,

1                   Inspector Edmund Horace

2                   again -- like a new marking for this

3                   depo. Didn't you mark that one?

4                   MR. GRANDINETTE: No. This is

5                   the Huntington Hospital. The other one

6                   was the crime scene.

7                   MR. MITCHELL: All right.

8                   Thanks.

9                   Q       If you look, sir, at the entry  
10                   that I highlighted there at 0205 -- I'm sorry,  
11                   0211. There is an entry on the crime scene  
12                   log from 270 Park Avenue, Huntington Hospital,  
13                   ER entrance, of Tom Marinaci, Sergeant from  
14                   the Third arriving at the hospital, right?

15                  A       Yes.

16                  Q       So, that would be -- under these  
17                   administrative guidelines, he is the caretaker  
18                   supervisor?

19                  A       Yes.

20                  Q       Then, shortly after that, the  
21                   next entry, 0251, approximately 40 minutes  
22                   later, you sign in, Edmund Horace, Inspector  
23                   Nassau County PD?

24                   MR. FERGUSON: He didn't sign it.

25                   Objection.

1                                   Inspector Edmund Horace

2                   Q           Your arrival is documented by a  
3                   member of the Suffolk County Police  
4                   Department, right?

5                   A           Yes.

6                   Q           So, I'm assuming that when you  
7                   arrived, you identified yourself. They asked  
8                   you for your name, your title, and they  
9                   recorded that information?

10                               MR. FERGUSON: Note my objection.

11                               Unless he knows that.

12                               MR. MITCHELL: Objection.

13                   Q           Can you tell me what happened  
14                   when you arrived, briefly, with respect to  
15                   your identifying yourself, if at all?

16                   A           I don't entirely remember. But,  
17                   I do rememberer speaking to someone from  
18                   Suffolk County. I would imagine he wrote my  
19                   name.

20                               MR. MITCHELL: I object to the  
21                   question and the answer. Speculation.

22                   Q           Now, getting back to this B-4 --  
23                   the supervisor responds to the scene, and then  
24                   he is to notify the police communication shift  
25                   supervisor to contact the DFR team



1                   Inspector Edmund Horace  
2       coordinator, correct?

3           A       Correct.

4                   MR. FERGUSON:   Where?

5                   MR. GRANDINETTE:   B-4.

6                   MR. FERGUSON:   So, you're saying  
7       the supervisor does that?

8                   MR. GRANDINETTE:   I'm reading  
9       this administrative rule.

10                   According to this, the caretaker  
11       supervisor notifies police  
12       communications shift supervisor to  
13       contact the Deadly Force Response Team  
14       coordinator; that's what this says,  
15       right?

16                   MR. FERGUSON:   Where does it say  
17       that?

18                   MR. GRANDINETTE:   B-4.

19                   MR. FERGUSON:   Caretaker  
20       supervisor begins at B-5.

21                   MR. GRANDINETTE:   Okay.

22       Q       Do you see B-4?

23       A       B-4.   Okay.

24       Q       There is a notification to be  
25       made to the police communications shift

1                   Inspector Edmund Horace

2       supervisor, right?

3               A           I think -- what B-4 says is that  
4       the desk Officer notifies police  
5       communications supervisor to contact Deadly  
6       Physical Force -- is that what you're saying?

7               Q           Right.

8               A           Yes.

9               Q           That's, in fact, how you were  
10      contacted, right?

11              A           (No response)

12              Q           Eventually, you received a phone  
13      call from your Chief?

14                       MR. FERGUSON:   From who?

15              Q           Didn't you testify, earlier, you  
16      received a call from --

17              A           I received a phone call from the  
18      operations desk supervisor.   I called Chief  
19      Hannon.

20                       The reason why I called her is  
21      because I notified her of the shooting, and we  
22      needed a Deadly Physical Force Response Team  
23      to be activated.   I called her.

24                       She is the Chief on duty.   She is  
25      the one that makes a determination whether

1                   Inspector Edmund Horace

2           Deadly Physical Force Team responds as per  
3           this order. That's how it was initiated.

4                   Q           Let's talk for a second before we  
5           get to your involvement.

6                               You see where it says "caretaker  
7           supervisor," number 5?

8                   A           Yes.

9                   Q           It outlines what the caretaker  
10          supervisor's duties are. And we said that  
11          Timothy Marinaci, who was the caretaker  
12          supervisor in this case in regulation 5 --  
13          procedure 5 says that he responds and assumes  
14          responsibility for the primary care of the  
15          member involved, including any of the  
16          following: Medical treatment, peer support,  
17          and critical incident stress management,  
18          right?

19                  A           That's what it says, yes.

20                  Q           You had training in peer support  
21          based upon Plaintiff's Exhibit 11, right --  
22          your training record?

23                  A           I just said I don't remember the  
24          training I had on that.

25                  Q           Then it says that, 6, the

1                   Inspector Edmund Horace  
2       caretaker supervisor stays with the members  
3       involved and explains to him the procedure to  
4       be conducted, correct?

5               A       Yes, that's what it says.

6               Q       Do you know whether or not  
7       Sergeant Marinaci did that?

8               A       I don't know.

9               Q       Do you know if he took the  
10      primary care of DiLeonardo and Bienz with  
11      respect to their medical treatment, peer  
12      support, and critical incident stress  
13      management?

14                   MR. FERGUSON: Note my objection.

15              A       I don't know.

16              Q       Now, the police communications  
17      supervisor notifies the DFR team coordinator,  
18      right? And you said in this case you received  
19      a telephone call. Let's talk about what you  
20      did after you got that call at about 1:30 in  
21      the morning.

22                   MR. FERGUSON: He didn't say it  
23      was 1:30 in the morning.

24              Q       What time did you receive the  
25      call?

1                   Inspector Edmund Horace

2                   MR. FERGUSON: He already said  
3                   about 1:50

4                   A           I think it was around 1:50.

5                   Q           What do you do?

6                   A           I got a phone call. I believe I  
7                   got a phone call to call the Third Precinct  
8                   supervisor. I believe I did that. And then I  
9                   notified of the off-duty shooting incident at  
10                  Huntington Hospital.

11                  Q           In response to receiving that  
12                  phone call, what is it that you did?

13                  A           I got out of bed. I was  
14                  sleeping. I got out of bed. Got myself  
15                  ready. I started -- got into my car. I don't  
16                  know. I got dressed and cleaned up. And I  
17                  started to respond to the hospital.

18                  Q           When you respond to the  
19                  hospital -- don't tell me your address -- but,  
20                  what town were you in -- how close were you to  
21                  the hospital?

22                  A           I was in Rockville Centre.

23                  Q           So, it's a bit of a drive to  
24                  Huntington Hospital from Rockville Centre?

25                  A           Yes.

1                                   Inspector Edmund Horace

2                   Q           Did you activate emergency lights  
3                   or sirens, or did you just drive out?

4                   A           I don't remember.

5                   Q           Looking at the time that you  
6                   logged into the hospital, does it make sense  
7                   to you that you would have arrived there at  
8                   2:51, about an hour after receiving the call?

9                   A           About an hour.

10                  Q           In between that hour, who did you  
11                  communicate with?

12                  A           I called the Duty Chief -- Chief  
13                  Hannon -- to tell her that I was -- that I got  
14                  the phone call for an off-duty incident and  
15                  explained to her. And she -- I believe she  
16                  said she was going to make, you know, bring up  
17                  the chain of command, which is part of our  
18                  protocol, and probably respond there. And I  
19                  believe she said she was going to activate the  
20                  Deadly Physical Force Team.

21                  Q           So, as the result of her telling  
22                  you that you expected other people to respond  
23                  to the scene?

24                  A           Yes.

25                  Q           Now, let's look at number 9, B-9

1                   Inspector Edmund Horace

2           team coordinator.   Okay.   Are you with me?

3                   A           B-9.

4                   Q           It says the team coordinator  
5           communicates with the desk officer and  
6           determines the response of the DFR team based  
7           upon the following:   A full team response if  
8           the incident involves a member of the  
9           Department discharging a firearm causing  
10          serious physical injury, right?

11                  A           Yes.

12                  Q           Or death.   In this case, there  
13          was a full time response, right?

14                  A           Yes.

15                  Q           According to this, under number  
16          10, the team coordinator advises the desk  
17          officer who's going to respond.   And in this  
18          specific case, you weren't involved with those  
19          communications; you just spoke to -- you were  
20          told to respond, and you did, correct?

21                  A           Yes.

22                               MR. MITCHELL:   Object to the  
23          form.   Number 10 talks about incidents  
24          not involving the discharge of firearms.  
25          I don't know if it was a preamble to the

1                   Inspector Edmund Horace

2                   question you wanted to ask him. But,  
3                   you talked about number 10.

4                   It says address the desk officer  
5                   as to who will respond for other  
6                   incidents. It says italicized not  
7                   involving a discharge of firearms.

8                   MR. GRANDINETTE: Let's start  
9                   again.

10                  Q           You, basically, get to the  
11                  hospital at -- an hour after receiving the  
12                  call, correct?

13                  A           Yes.

14                  Q           2:51. You're on notice,  
15                  having spoken with your superior that there's  
16                  a full Deadly Force Response Team, but you  
17                  don't know who's going to make up that team at  
18                  this moment, right?

19                  MR. FERGUSON: Which moment are  
20                  you talking about?

21                  Q           When you're driving to the  
22                  hospital. You're on your way; you get to the  
23                  hospital. you know there's going to be a full  
24                  response, but you don't know who's involved  
25                  yet, right?



1                           Inspector Edmund Horace

2                   A           No.

3                   Q           There comes a point in time where  
4                   you learned who else responded. We'll get to  
5                   that.

6                           Upon your arrival, you're not  
7                   sure who's responding as part of the Deadly  
8                   Force Response Team, but you know that you are  
9                   and that's your responsibility, right? That's  
10                  why you're driving to Huntington Hospital?

11                  A           Can you say that, again?

12                  Q           You're driving to Huntington  
13                  Hospital as part of the Deadly Force Response  
14                  Team?

15                           MR. FERGUSON: You need to  
16                  establish that at this point fifteen  
17                  questions after he already said that?

18                  A           I drove to Huntington Hospital.

19                           MR. FERGUSON: Because you had a  
20                  pain in your stomach?

21                  A           No. As the on-duty Inspector.

22                  Q           And as part of the Deadly  
23                  Physical Force Response Team?

24                  A           Implicit in that, you know -- if  
25                  you look at the team it's comprised of

1                   Inspector Edmund Horace  
2           numerous people. One of them would be the  
3           Inspector. Team leader is usually a Chief.

4                   MR. FERGUSON: He is asking if  
5           you went to the hospital because you  
6           were on this team, basically. And the  
7           answer is yes, right?

8                   THE WITNESS: Yes, I did.

9           Q       Let's look at number 14. Under  
10          number 14, it says the DFR team, 14, responds  
11          to the scene and ascertains the facts  
12          regarding the incident, correct?

13          A       Yes.

14          Q       That's part of your duties and  
15          responsibilities to ascertain the facts  
16          regarding the incident, right?

17          A       I just don't understand what  
18          you're getting at with this question.

19          Q       I'm not getting at anything.  
20                   Is that part of your duty and  
21          responsibility; to respond to the scene and  
22          ascertain the facts regarding the incident?

23          A       It's part of the Deadly Physical  
24          Force Team's duties.

25          Q       You're part of that team?

1                   Inspector Edmund Horace

2                   MR. FERGUSON: You don't know  
3                   that, yet? Why are you asking the same  
4                   questions over and over? You know he is  
5                   part of that team. That's why he went  
6                   that night. You're just wasting  
7                   everyone's time.

8                   Q           Looking at number 15 -- part of  
9                   your duties is to review the facts of the  
10                  incident with the team coordinator, correct?

11                  MR. FERGUSON: That's what the  
12                  team does.

13                  Q           Is that correct -- it's part of  
14                  your duties?

15                  A           It's part of the team's duties.

16                  Q           Number 16, to evaluate the  
17                  situation, respond to the scene, as necessary.

18                  MR. FERGUSON: As team  
19                  coordinator.

20                  Q           That particular evening, did you  
21                  ever respond to the scene?

22                  MR. FERGUSON: Which scene are  
23                  you referring to?

24                  Q           The scene where the shooting took  
25                  place.

1                                   Inspector Edmund Horace

2                   A           No, I did not.

3                   Q           Seventeen. Initiates a firearm  
4 discharge procedure; do you know if that was  
5 done?

6                   A           I don't know.

7                   Q           Eighteen. Verbally reports to  
8 the Commissioner as soon as practical; do you  
9 know if that was done?

10                  A           I don't know.

11                  Q           Nineteen. Ensures the following:  
12 The preparation of a narrative report  
13 containing the initial account of the incident  
14 and the delivery of the report to the  
15 Commissioner before the end of the next  
16 business day; do you know if that was done?

17                  A           I don't know.

18                  Q           Tell me what you did when you got  
19 to the hospital?

20                  A           I got to the hospital. I met  
21 Sergeant -- I believe, 1 or 2 of the Suffolk  
22 cops there. And they briefly told me what  
23 happened.

24                  Q           What did Sergeant Marinaci tell  
25 you what happened?

Inspector Edmund Horace

1                                   Inspector Edmund Horace  
2                   A           He just briefly told me that, you  
3                   know, there was some sort of an incident. I'm  
4                   not sure whether he told me or the cop that  
5                   was -- Suffolk County. I'm not sure who told  
6                   me that there was an incident. I forget the  
7                   location of the incident -- involving a  
8                   taxicab driver and the two officers. It ended  
9                   up where I was told that the taxicab driver  
10                  tried to run them over. And there were shots  
11                  fired. And the actual taxicab was surrounded  
12                  by tape because it was a crime scene there. I  
13                  walked over with the Officer. I saw the front  
14                  of the taxicab. I walked over to the side. I  
15                  saw the -- one of them said to me that the  
16                  Officer lost his gun in the cab. Looked  
17                  there. Saw the gun.

18                               I think at that point or  
19                   somewhere in that point someone said to me  
20                   that the -- the two officers were in X-ray;  
21                   they were being X-rayed. So, I was outside  
22                   for a period of time looking at the car and  
23                   looking at things outside the building.  
24                   That's kind of it. It's kind of a gray area.

25                  Q           When you first arrived, then, at

1                   Inspector Edmund Horace  
2       approximately 0251 you recall having this  
3       conversation with Sergeant Marinaci as well as  
4       two members of the Suffolk County Police  
5       Department?

6               A        I don't remember how many  
7       members.

8               Q        Can you tell me the members of  
9       the Suffolk County Police Department; were  
10      they in uniform or were they in plain clothes?

11              A        I believe they were in uniform.

12              Q        When you had the reason with  
13      Marinaci, were they there the entire time? In  
14      other words, it was a conversation between you  
15      and these other officers?

16              A        I don't remember.

17              Q        Did you first have a conversation  
18      with Marinaci and then have a separate  
19      conversation with these officers from Suffolk?

20              A        I know the first person I talked  
21      to was Marinaci.

22              Q        How much information did Marinaci  
23      communicate to you?

24              A        Not much other than what I just  
25      said. Very little.

Inspector Edmund Horace

Q           What you just said was there was  
an incident involving two Nassau County  
off-duty cops and a taxicab, right?

A Yes.

Q You said, according to Marinaci that the cab accelerated and the -- at the one of the officers and he shot in response?

MR. FERGUSON: Note my objection.

Q Is that what he told you?

MR. FERGUSON: He already stated on the record what he was told when he got there.

MR. GRANDINETTE: Mike, I understand.

Q Tell me, again, exactly what Marinaci told you?

A        Okay. I don't know exactly what  
he said to me. It's two years.

Q To the best of your recollection.

A           To the best of my ability -- it was either him or the Suffolk cop -- I don't know who said it. It was said to me that there was some sort of an altercation between the taxicab driver and the cops. And the

1                   Inspector Edmund Horace  
2           taxicab driver apparently tried to, you know,  
3           tried to hit the cops. And the one Officer  
4           shot into the front of the car. Somebody  
5           walked around the side of the car. I don't  
6           know what he did. He walked around the side  
7           of the car. And for one reason or another his  
8           gun ended up going inside the car. I saw the  
9           gun in the back seat.

10           Q           So, it's fair to say that at 0251  
11           or thereabouts -- within 10 minutes of your  
12           arrival -- you had these facts communicated to  
13           you?

14           A           Probably more like after  
15           3 o'clock. I got there 0251. So, somewhere  
16           around 3 o'clock when I got those facts  
17           communicated.

18           Q           What was communicated to you when  
19           you first arrived?

20           A           That's when I first arrived. I  
21           got there at 0251.

22           Q           Within ten minutes?

23           A           Right.

24           Q           But, within 5-10 minutes of you  
25           getting there somebody communicated these



1                   Inspector Edmund Horace

2           facts to you, right?

3           A           Yes.

4                   MR. MITCHELL:   Could you ask if  
5           Marinaci was in uniform?

6                   MR. GRANDINETTE:   Sure.

7           Q           Was Marinaci in uniform?

8           A           Yes.

9           Q           I'm going to show you what has  
10          been previously marked as Plaintiff's  
11          Exhibit 9, which are the medical records of  
12          Anthony DiLeonardo.

13                   I'm going to ask you to look at  
14          the time of his arrival at the hospital.

15                   MR. FERGUSON:   Wait.   I'm  
16          objecting to your asking him questions  
17          about any document, unless it's  
18          established that there's a foundation  
19          that he's familiar with the document,  
20          and that he can testify as to its  
21          content.

22                   You're saying -- you're  
23          referencing something that hasn't been  
24          established or seen before or knows  
25          anything about, and nor could he vouch

1                   Inspector Edmund Horace  
2                   that any times -- unless it's been  
3                   established in your questioning -- could  
4                   he establish that any times on this  
5                   document are in any way valid.

6                   MR. GRANDINETTE: Okay. Your  
7                   exception is noted.

8                   Q           Sir, do you see the arrival time  
9                   at the hospital?

10                  A           I don't know what that means.

11                  Q           You said you were a volunteer  
12                  firefighter, an EMS -- you know based upon  
13                  your -- God knows how many years of  
14                  experience -- when somebody is driven to a  
15                  hospital in an ambulance, they record when  
16                  they arrive and so, too, does the hospital.

17                  MR. FERGUSON: Note my objection.

18                  MR. MITCHELL: Me, too.

19                  MR. FERGUSON: Have you ever seen  
20                  this document before?

21                  THE WITNESS: No.

22                  MR. FERGUSON: Do you have any  
23                  idea what it is?

24                  THE WITNESS: No.

25                  MR. FERGUSON: Do you know how to

1                   Inspector Edmund Horace

2                   interpret it?

3                   THE WITNESS: No.

4                   MR. FERGUSON: Objection.

5                   Q       You don't know how to read the  
6                   time sheet of an ambulance record?

7                   MR. FERGUSON: Note my objection.

8                   MR. MITCHELL: I'm willing to  
9                   stipulate that the document speaks for  
10                  itself.

11                  Q       Even though you don't know how to  
12                  interpret this document, would you agree with  
13                  me whoever recorded it --

14                  MR. GRANDINETTE: Mike, could I  
15                  please ask a question?

16                  MR. FERGUSON: You can ask a  
17                  question. I'm not going to stop you  
18                  from asking a question.

19                  MR. GRANDINETTE: I need to have  
20                  him look at that.

21                  MR. FERGUSON: Go ahead.

22                  Where are you referring to?

23                  Q       According to the ambulance record  
24                  of Anthony DiLeonardo, he arrived of at the  
25                  hospital at 0158 hours that morning?

1                                   Inspector Edmund Horace

2                   A           It says destination 0158.

3                   Q           You got there at what time?

4                               MR. FERGUSON: He said he didn't  
5                   know. There's a sheet that has his name  
6                   with a time on it. But, he doesn't know  
7                   the time that he arrived. He already  
8                   answered that.

9                   A           Sheet says 2025.

10                  Q           About an hour later, right?

11                  A           (No response)

12                  Q           Part of your duties and  
13                  responsibilities is ascertain the facts and  
14                  circumstances of what happened, right?

15                  A           Yes.

16                  Q           You know that you're to ascertain  
17                  that information and to report it to the  
18                  Commissioner of Police, right?

19                               MR. FERGUSON: You're misreading  
20                  the department procedures.

21                               The person who reports is the  
22                  team coordinator.

23                  Q           You understand part of your role  
24                  as the Deadly Force Response Team is to  
25                  ascertain the facts of what happened, and you

1                   Inspector Edmund Horace

2           also understand than that a written report is  
3           going to be submitted to the Commissioner of  
4           Police, right?

5           A           Well, according to this record,  
6           yes.

7           Q           That's a pretty serious thing.  
8           When you're reporting a shooting event to the  
9           Commissioner of Police you want to be accurate  
10          and you want to give specific detailed  
11          information about what happened because you're  
12          not reporting to anyone; you're reporting to  
13          the Commissioner of Police?

14                   MR. FERGUSON: He's not reporting  
15                   to the Commissioner of Police.

16                   Objection. It's an improper question.

17                   MR. GRANDINETTE: You can object.  
18                   Objection is noted.

19                   MR. FERGUSON: Document  
20                   specifically says that the team  
21                   coordinator reports to the Commissioner.

22           Q           You understand that there's a  
23           report submitted to the Commissioner of  
24           Police?

25           A           As part of the order -- as part

1                   Inspector Edmund Horace

2           of the procedure, there will be reports  
3           submitted to the Commissioner of Police.

4                   Q           You're part of that team based  
5           upon your experience and training, and you  
6           respond. And when you respond within ten  
7           minutes or so you're told specific factual  
8           events about what happened, right?

9                   MR. FERGUSON: Note my objection.

10                  A           I was given, you know -- I was  
11           given some sort of an account what happened.

12                  Q           Would you agree with me that that  
13           account presumes that someone interviewed --  
14           by 3:00 o'clock in the morning when you were  
15           told what happened -- somebody interviewed  
16           these police officers, DiLeonardo and Bienz --  
17           as to what happened?

18                  MR. FERGUSON: Note my objection.

19                  MR. MITCHELL: Objection.

20                  A           I wouldn't know that.

21                  Q           Did you ask Marinaci or did you  
22           ask any one of these Suffolk County Police  
23           Officers or detectives who were present where  
24           they obtained their information from?

25                  A           I don't believe so.

1                   Inspector Edmund Horace

2                   Q       Is there a reason why you didn't  
3 ask them that?

4                   A       I was not an active part of this  
5 investigation.

6                   Q       Is that why you didn't ask them?

7                   A       It was a Suffolk County  
8 investigation. I was not an active part of  
9 the investigation.

10                  Q       Is part of your duties and  
11 responsibilities as listed on paragraph 14 to  
12 respond to the scene and ascertain the facts?

13                  A       Yes.

14                  Q       After this initial conversation  
15 with Marinaci and these two Suffolk County  
16 Police Officers you didn't know the names --  
17 could you describe them?

18                  A       No.

19                  Q       Did you speak to them, again, at  
20 all later in the evening?

21                  A       I don't remember.

22                  Q       Did you take any notes as to what  
23 they told you they knew?

24                  A       No.

25                  Q       What did you do, then, next after

1                   Inspector Edmund Horace

2           speaking with these gentlemen?

3                   A           Well, I looked at the car. I  
4           don't remember what I did right away. I know,  
5           eventually, I saw the two officers -- probably  
6           a good hour and-a-half later.

7                   Q           Okay. When you looked at the  
8           car, that was the Deborah taxicab?

9                               Let me show you a picture of it.

10                              (Whereupon, a short break was  
11           taken at this time.)

12                   Q           After you had this conversation  
13           with Marinaci and the two members of the  
14           Suffolk Police Department --

15                              MR. MITCHELL: Tony, just  
16           clarify. You called them detectives  
17           before.

18                              MR. GRANDINETTE: What I said,  
19           earlier, before you were here. When I  
20           use the word, police officer, it could  
21           be --

22                              MR. MITCHELL: You're talking  
23           about two specific guys at the hospital  
24           that he's identified as officers. You  
25           accidentally called them detectives



1                   Inspector Edmund Horace

2                   before.

3                   Q           When you spoke to Marinaci and it  
4                   two members of the Suffolk County P.D., were  
5                   they in uniform?

6                   A           I believe they were.

7                   Q           Was anybody from the Suffolk  
8                   County Police Department not in uniform when  
9                   you first arrived -- that conversation?

10                  A           I don't remember.

11                  Q           Did you ask any of those three  
12                  individuals if they spoke directly with  
13                  DiLeonardo and Bienz?

14                  A           I don't remember.

15                  Q           When you got there, did you ask  
16                  Marinaci, "Hey, listen, how are the guys?"  
17                  Did you speak to them "What's going on?"

18                  A           I don't remember asking him  
19                  that -- Marinaci. I remember him telling me,  
20                  you know, that they were in X-ray, and going  
21                  over the car. I don't remember  
22                  anything specifically regarding -- asking  
23                  Marinaci anything about the cops.

24                  Q           Did you ask Marinaci or the  
25                  Suffolk Police about the well-being of the

1                                   Inspector Edmund Horace

2           people in the cab?

3                   A           I don't remember that, either.

4                   Q           You mentioned that you went to  
5           look at a cab.

6                                   I'm going to show you what has  
7           been marked as -- or stamped 836 of the Nassau  
8           County Police Department IAB record. Do you  
9           recognize that photograph as being the cab  
10          that you observed?

11                   A           It was a Prius. That's a Prius.  
12          I don't know if that was the one. It looks  
13          like a cab.

14                   Q           Let me show you a couple of other  
15          pictures. Nassau IAB report, Bates stamp 952.

16                   A           Okay.

17                   Q           The front driver's side door; do  
18          you recognize that photograph?

19                   A           I never seen that photograph  
20          before.

21                   Q           Do you recall seeing the Prius  
22          cab with the windshield shattered and driver's  
23          side glass door shattered and blood on it?

24                   A           I remember seeing glass in the --  
25          inside the cab. I don't remember any

1                           Inspector Edmund Horace

2           shattered glass.

3                   Q           How about blood?

4                   A           I don't remember. I don't blood,  
5           either.

6                   Q           953, 954; these photographs with  
7           the front driver's side door open glass in the  
8           seat and blood?

9                   A           I don't remember.

10                  Q           954; you don't recall that?

11                  A           No.

12                  Q           Now, looking at 955, 956, and  
13           957 -- in 955 and 956 you see a revolver in  
14           the rear seat behind the driver's side?

15                  A           Okay.

16                  Q           Did you observe that revolver in  
17           the backseat that night -- in the back floor  
18           behind the driver's side door?

19                  A           I did see a revolver on the  
20           floor.

21                  Q           Did you later learn that evening  
22           that that gun belonged to Anthony DiLeonardo?

23                  A           Yes.

24                  Q           And that was the gun that he  
25           discharged during the course of these events?

1                                   Inspector Edmund Horace

2                   A           I believe so.

3                   Q           Did you also observe that night  
4                   that there were bullet holes in the front  
5                   windshield of that car?

6                   A           There was something in the front,  
7                   yes.

8                   Q           Looking at photograph 851, 852,  
9                   853; were you able to visually observe bullet  
10                  holes in the front windshield of the car?

11                  A           Yes.

12                  Q           As part of your investigation,  
13                  did you learn that there was a driver of the  
14                  taxicab was Thomas Moroughan and he was shot?

15                  A           I didn't know his name. I was  
16                  told there he was the driver of taxicab.

17                  Q           You learned that he was shot as a  
18                  result of this incident?

19                  A           Yes.

20                  Q           What were you told, and by whom?

21                  A           I don't remember exactly,  
22                  specifically.

23                  Q           Would it be fair to say that  
24                  shortly after your arrival you were aware that  
25                  there was a shooting by Anthony DiLeonardo;

1                   Inspector Edmund Horace

2           that the cab driver had been hit; and that he  
3           was in the hospital along with Bienz and  
4           DiLeonardo.

5                   A           Yes.

6                   Q           What, if anything, else he did  
7           you learn when you arrived?

8                   A           I can't remember anything else.

9                   Q           What did you do after you had  
10          learned this information? What did you do,  
11          physically?

12                  A           Well, I think I made a phone  
13          call.

14                  Q           To who?

15                  A           I believe to Chief Hannon.  
16          Either I called her or she called me. I don't  
17          remember.

18                  Q           What did you tell Chief Hannon?

19                  A           I gave her an update.

20                  Q           What was that update?

21                  A           That I was at the hospital, and  
22          there was a shooting. I don't remember  
23          exactly what I told her.

24                  Q           Did you communicate what you were  
25          told?

1                           Inspector Edmund Horace

2                   A           Yes, basically.

3                   Q           Did you call Chief Hannon prior  
4           to speaking to the officers?

5                   A           I called Chief Hannon when I was  
6           on the way to the hospital. I don't remember  
7           if I talked to her after I got to the  
8           hospital. I don't remember if I talked to her  
9           right after I got to the hospital. I don't  
10          remember whether she called me or I called  
11          her. But, I did briefly tell her that. and I  
12          think at that point she also said that Deputy  
13          Chief Hunter was going to be the -- responding  
14          as a team leader to the scene.

15                  Q           Did she tell you where he was  
16          responding to?

17                  A           I don't remember.

18                  Q           Did you later learn that he first  
19          responded to the scene?

20                  A           Yes.

21                  Q           At some point he responded to the  
22          hospital, right?

23                  A           Yes.

24                  Q           If we look at what is marked as  
25          Plaintiff's Exhibit Number 13 -- if we look at

1                           Inspector Edmund Horace  
2           Plaintiff's 13, I actually don't see Chief  
3           Hunter logged into the hospital?

4                           But, he did respond to the  
5           hospital in the early morning hours of  
6           February 27th, correct?

7                   A           I saw him at the hospital, yes.

8                   Q           After your initial conversation  
9           with the two uniformed cops and Marinaci and  
10          looking at the cab, you said about ten minutes  
11          go by. What do you do next?

12                  A           I don't remember.

13                  Q           Did you enter the hospital and  
14          speak to DiLeonardo and Bienz?

15                  A           At one point, yes, I did.

16                  Q           So, let's take it one step at a  
17          time.

18                           What do you remember after  
19          looking at that cab?

20                           MR. FERGUSON: Third time you  
21          asked the question. The third time he  
22          told you he doesn't recall what he did  
23          next.

24                           You keep asking it over and over,  
25          again.

1                           Inspector Edmund Horace

2                   A           I don't remember.

3                   Q           Do you have any recollection of  
4           what you did after looking at the cab?

5                   A           No.

6                   Q           Do you have any recollection of  
7           speaking to anyone?

8                   A           Only recollection I have is I  
9           spoke with Chief Hannon by telephone. I  
10          believe I spoke with -- I think the CO or  
11          Deputy CO of the Third Precinct had called me  
12          at one point. I spoke with him.

13                  Q           Who was that?

14                  A           Name of Sean McCarthy.

15                  Q           What did you talk to Sean  
16          McCarthy about?

17                  A           I just briefly explained to him  
18          the incident. I don't remember what I said,  
19          actually.

20                           I believe Chief Hunter at one  
21          point called me, also. I'm not sure exactly  
22          what time that was.

23                  Q           Other than those things, do you  
24          have any other recollection of anything you  
25          did?



1                   Inspector Edmund Horace

2                   MR. FERGUSON: He mentioned  
3                   speaking to the officers at some point  
4                   already.

5                   A           The next thing would be -- the  
6                   recollection would be speaking to the  
7                   officers.

8                   Q           So, let talk about that.

9                               Did you walk from where the cab  
10                   was right into the hospital and speak to the  
11                   officers right away?

12                  A           Not right way.

13                  Q           How much time went by from the  
14                   time that you left looking at the scab to go  
15                   speak to the officers?

16                  A           It had to be at least an hour or  
17                   an hour and-a-half at least.

18                  Q           What did you do in between that  
19                   hour or hour and-a-half?

20                  A           I don't remember.

21                  Q           If I understand the time sequence  
22                   correct, that would be from about 3 o'clock to  
23                   4:30 in the morning. You don't have a  
24                   recollection of what you did or who you spoke  
25                   to?

1                                   Inspector Edmund Horace

2                   A           No.

3                   Q           Did you take any notes?

4                   A           No.

5                   Q           Can you explain to me why you  
6 waited that long to speak to the two officers?

7                   A           They were in X-ray.

8                   Q           Were they in X-ray for an hour  
9 and-a-half?

10                  A           I don't know.

11                  Q           Is it your recollection the  
12 reason you didn't speak to them between  
13 approximately 3:00 and 4:30 -- and, again,  
14 these are approximate times -- is based upon  
15 the fact that you believed that they were  
16 receiving medical attention and unavailable  
17 for questioning?

18                  A           I don't know.

19                  Q           At any rate, your best  
20 recollection is that you spoke to them at 4:30  
21 or so in the morning. With whom did you speak  
22 and where?

23                  A           I spoke to Officer DiLeonardi,  
24 briefly.

25                  Q           When you say briefly; about how

1                                   Inspector Edmund Horace

2           long did you speak to him?

3                   A           Two or 3 minutes.

4                   Q           Where were you when you spoke to  
5           him?

6                   A           He was in one of the rooms -- one  
7           of the areas. He was in, I guess, a bed or a  
8           trundle-type bed.

9                   Q           Was this within the emergency  
10          department of the Huntington Hospital?

11                  A           Yes.

12                  Q           Was he in a room with anybody  
13          else?

14                  A           I believe there was one other  
15          gentleman. I believe he was a PBA delegate in  
16          the hospital.

17                  Q           Do you recall what his name is?

18                  A           No.

19                  Q           So, you believe he was with a PBA  
20          delegate?

21                  A           Yes.

22                  Q           You said that you spoke to him  
23          briefly. Do you recall how long your  
24          conversation was?

25                  A           A minute or two.

1 | Inspector Edmund Horace

2 Q Do you recall what you said to  
3 him and what he said to you?

4                   A           I asked -- I introduced myself,  
5       "How are you doing?"   He said he was doing all  
6       right.

7 Q When you introduced yourself --  
8 forgive me -- did you introduce yourself  
9 formally, "My name is Chief Inspector"?

10                   A           Inspector Horace.  "My name is  
11           Inspector Horace."

12 Q Did you tell him what your  
13 purpose of being there; that I'm here as a  
14 member of the Deadly Force Response Team to  
15 investigate this investigate -- report to the  
16 Commissioner.

17 A No.

18 Q Why didn't you do that?

19 MR. MITCHELL: Object to the form  
20 of the question.

21 MR. FERGUSON: Object to the form  
22 of the question.

23                   A           Number one, I was not part of the  
24           investigation.   Suffolk County was  
25           investigating.   So, my purpose was not to

1                   Inspector Edmund Horace

2           investigate the incident.

3                   Q           I want to clarify one thing.

4           We'll get back to that.

5                               You were there as part of Deadly  
6           Force Response Team, right?

7                   A           Yes.

8                   Q           We went over these rules and the  
9           rules give certain procedures that are to be  
10          followed involving shooting incidents of your  
11          department out of Nassau County, right?

12                               MR. FERGUSON: Note any  
13          objection.

14                  A           Correct.

15                  Q           Did anybody from Suffolk County  
16          come up to you and tell you, "Inspector  
17          Horace, "you are prohibited from asking any  
18          questions of either one -- either DiLeonardo  
19          or Bienz?

20                  A           No. However, my Chief did tell  
21          me that. Chief Hannon told me that prior to  
22          getting to the hospital.

23                  Q           So, Chief Hannon told you what?

24                  A           Prior to getting to the hospital  
25          when I was on the phone with her she said to

1                   Inspector Edmund Horace

2           me that this is not our investigation. It's  
3           Suffolk's investigation. You are not to get  
4           involved with the investigation. If they need  
5           help or whatever, fine, but you're not to get  
6           involved with the investigation. That was a  
7           direction by Chief Hannon before I got to the  
8           scene.

9                   Q           The investigation of the crime,  
10          right?

11                           MR. FERGUSON: Objection.

12                   A           Investigation of the incident.

13                   Q           Were you under the impression  
14          that Chief Hannon was telling you to disregard  
15          your obligations under the Deadly Force  
16          Response Team?

17                           MR. FERGUSON: Objection.

18                   A           No, she was not.

19                   Q           So, she was telling you in sum  
20          and substance, listen this happened on Suffolk  
21          County turf, it's their investigation. Let  
22          them do their thing. But, she never directed  
23          you not to perform your duties for which you  
24          were specifically responded to the hospital,  
25          correct?

1                   Inspector Edmund Horace

2                   MR. FERGUSON: Note my objection.

3                   A           Correct.

4                   Q           You introduced yourself, and what  
5           DiLeonardo say to you?

6                   A           I think he said, "I'm all right."  
7           I believe I shook his hand. And I said, "If  
8           you need anything, let us know." And I left  
9           the room.

10                  Q           Other than that conversation, did  
11           you say anything else to him?

12                  A           I don't believe so.

13                  Q           Did he say anything else to you?

14                  A           I don't think so.

15                  Q           How close were you to him?

16                  A           You know, as far enough to be  
17           shaking his hand.

18                  Q           In close proximity the whole time  
19           to him, whatever this was -- 3 or 4 feet?

20                  A           Yes.

21                  Q           Was this a minute, two minutes?

22                  A           About a minute.

23                  Q           Was he lying down, sitting up?

24                  A           I believe he was sitting up.

25                  Q           The only other person in the room

1 | Inspector Edmund Horace

2 with him was this delegate?

3 | A I believe so.

|   |   |                                |
|---|---|--------------------------------|
| 4 | Q | Whose name you don't remember? |
|---|---|--------------------------------|

|   |   |                 |
|---|---|-----------------|
| 5 | A | Don't remember. |
|---|---|-----------------|

6 Q Now, is there any reason why you  
7 didn't spend more time with him and ask him  
8 some basic questions? For example, "Hey, what  
9 happened?"

10                   A            Because it was an active  
11           investigation by Suffolk County.  I did not  
12           want to infringe on Suffolk County's  
13           investigation.

14 Q Was there any member of the  
15 Suffolk County Police Department in the room  
16 at that time?

|    |   |     |
|----|---|-----|
| 17 | A | No. |
|----|---|-----|

18 Q Now it's 4:30 -- about 4:30 in  
19 the morning, right?

20                                   A           I believe so.

21 Q You had observed the car, blood,  
22 bullet holes, and a gun. To your knowledge up  
23 to that point, had anybody from Suffolk County  
24 Police Department interviewed DiLeonardo?

25 MR. FERGUSON: Note my objection.



1                           Inspector Edmund Horace

2                   A           I don't know.

3                   Q           Is there a reason why you  
4 wouldn't have known that?

5                           MR. FERGUSON:  Objection.

6                           MR. MITCHELL:  Object to the  
7 form.

8                   Q           You were present there the whole  
9 time, right?

10                  A           I didn't see DiLeonardo until  
11 that time in the morning.  I don't know what  
12 happened between, you know -- leading up to  
13 that point.

14                  Q           We did look at the hospital  
15 record, and according to the hospital record  
16 you got there at 2:00 in the morning.  But,  
17 you're saying that you never physically saw  
18 DiLeonardi until 4:30 in the morning in the  
19 emergency room?

20                           MR. FERGUSON:  Note my objection.

21                  A           Yes.

22                  Q           So, to your knowledge, he  
23 physically wasn't present between 2:00 and  
24 4:30; that's the first time you physically  
25 observed him?

1 Inspector Edmund Horace

2 MR. FERGUSON: What do you mean  
3 wasn't present? You mean wasn't present  
4 in the emergency department?

5 MR. GRANDINETTE: Right.

6 MR. FERGUSON: Objection.

7 A I don't know if he was present.

8 Q Is there a reason you didn't  
9 know?

10 MR. FERGUSON: Objection.

11 Q Did you inquire of the nursing  
12 staff, a doctor?

13 A I spoke to no nurses or doctors.

14 Q Is there a reason why you didn't  
15 identify yourself to the chief of security,  
16 nurse, doctor, and say I'm here from Nassau  
17 County Police Department. Where is Officer  
18 Anthony DiLeonardo and Officer Edward Bienz.  
19 I need to speak to them, now?

20 MR. FERGUSON: Note my objection.

21 A I spoke to the Sergeant and the  
22 Suffolk County cop outside.

23 Q Right.

24 A That was my first encounter in  
25 the hospital.

1 | Inspector Edmund Horace

2 | Q I understand that.

3                   They told you in sum and  
4       substance this factual account --

|   |   |          |
|---|---|----------|
| 5 | A | Correct. |
|---|---|----------|

6 Q About a taxicab approaching  
7 DiLeonardo and discharging a gun running to  
8 the side of the car, smashing the window, the  
9 gun falling in the back seat.

10                   So, someone got a factual history  
11       from someone. But, I'm trying to ascertain --  
12       did you ever find out from whom?

13 MR. FERGUSON: Note my objection.

14                   A           I don't know.

15 Q But, you never inquired?

16 MR. FERGUSON: Same objection.

17 A No.

18 Q Did you ever ask Marinaci where  
19 are these guys. Where's DiLeonardo? Where's  
20 Bienz?

21                   A            When I first got to the hospital,  
22           -- I think I mentioned before -- I don't know  
23           who said to me -- but someone said to me they  
24           were in X-ray when I got there.

25 Q They were in X-ray. You were

1                   Inspector Edmund Horace

2           there for an hour and-a-half.

3                   Did there come a point in time --  
4           a half hour in -- you say where are these  
5           guys? I want to talk to them.

6                   MR. FERGUSON: Note my objection.

7           A           I believe when they did get out  
8           of X-ray, somebody notified me. That's when I  
9           went to see DiLeonardo and then the other guy.

10           Q           So, it's your position that you  
11           think that they were actually in X-ray or out  
12           of the emergency room for almost an hour  
13           and-a-half. And then when they were returned  
14           to the emergency room, you spoke to DiLeonardo  
15           for a minute?

16                   MR. FERGUSON: Objection. He  
17           never said where they were or they were  
18           out of the emergency room or any of  
19           these things. Objection.

20           Q           You did indicate you thought they  
21           were out in X-ray?

22                   MR. FERGUSON: How do you know  
23           where X-ray is? Have you established  
24           whether it's in or outside the emergency  
25           room?

1 Inspector Edmund Horace

2 MR. GRANDINETTE: Mike, that's  
3 his testimony.

4 MR. FERGUSON: That's your  
5 speculation. That's what it is. It's  
6 not his testimony.

7 MR. GRANDINETTE: Excuse me.

8 Q You were woken up in the middle  
9 of the night?

10 MR. FERGUSON: Did you ever hear  
11 of portable X-ray?

12 Q Driven an hour with the very  
13 specific purpose and that is to learn the  
14 facts surrounding an incident that took place  
15 -- a shooting of two Third Precinct cops,  
16 right.

17 MR. FERGUSON: Objection. That  
18 hasn't been his testimony. That's your  
19 characterization. Objection.

20 A I was walking up to respond to an  
21 incident of possible shooting at, you know, in  
22 Suffolk County.

23 Q You get there. You learn there's  
24 a shooting. You see the cop's gun. You see  
25 blood.

1 Inspector Edmund Horace

2 MR. FERGUSON: He said he didn't  
3 see blood. Objection.

4 Q You learned that somebody is  
5 hurt, right?

6 MR. MITCHELL: Objection. Asked  
7 and answered.

8 MR. FERGUSON: Over and over.

9 A Like I said, I saw the car. I  
10 saw the gun in the car. That's it.

11 Q An hour and-a-half goes by. You  
12 see DiLeonardo, and you speak to him for a  
13 minute.

14 Is there any reason why your  
15 conversation was so brief and you didn't ask  
16 him specifics about the facts?

17 MR. FERGUSON: He already  
18 answered that question. Asked and  
19 answered.

20 A It wasn't my job.

21 The Suffolk County Police  
22 Department's job was to investigate the scene.  
23 It was their jurisdiction.

24 Q Didn't we agree that it was your  
25 job pursuant to your role as a member of the

1                   Inspector Edmund Horace  
2       Deadly Force Response Team to respond to the  
3       scene and ascertain the facts regarding the  
4       incident which would eventually be reported to  
5       the Commissioner of Police?

6                   MR. FERGUSON:   Objection.

7                   MR. MITCHELL:   You did that  
8       already.   Objection.

9                   A       As the team coordinator.

10                  Q       So, according to you that wasn't  
11       your job.

12                  MR. FERGUSON:   Objection.   Which  
13       part of it are you talking about?

14                  MR. GRANDINETTE:   To ascertain  
15       the facts.

16                  A       My job is to support the team  
17       coordinator.

18                  Q       Now, other than this minute  
19       conversation and this briefing that you had,  
20       right, when you first arrived -- up to that  
21       point in time, had you done anything else that  
22       you can remember?

23                  MR. FERGUSON:   Other than what  
24       he's already answered.

25                  A       I don't remember.

1 Inspector Edmund Horace

2 Q When you were face to face with  
3 DiLeonardo and spoke to him, did you have an  
4 occasion to observe whether or not he was  
5 intoxicated or impaired by the consumption of  
6 alcohol?

7 MR. FERGUSON: Note my objection.

8 A I didn't smell any alcohol during  
9 conversation with him. And his response to  
10 me -- he sounded, you know, like normal. He  
11 didn't sound intoxicated in the conversation.

12 Q In that minute conversation or  
13 so, he sounded fine. Are you saying he  
14 appeared to be fine, physically?

15 A Yes.

16 Q His speech wasn't slurred?

17 A No.

18 Q His eyes weren't bloodshot?

19 A No.

20 Q He didn't have an odor of alcohol  
21 on his breath?

22 A I didn't smell anything.

23 Q Did you ask him, "Officer, where  
24 were you prior to this incident?"

25 MR. FERGUSON: Objection. He



1                   Inspector Edmund Horace

2                   already testified to the conversation.

3                   A           No, I did not.

4                   Q           Did you ask him whether or not he  
5                   had been drinking alcohol or taking drugs?

6                   A           No, I did not.

7                   Q           Is it part of your duty and  
8                   responsibilities to determine whether or not  
9                   the Officer involved in a shooting was fit for  
10                  duty; meaning not impaired by the use of  
11                  intoxicant?

12                  MR. FERGUSON: Note my objection.

13                  A           I believe what you're saying  
14                  that's part of the investigative report --  
15                  that's prepared by the team coordinator.

16                  Q           I'm assuming that you're a  
17                  participant in this as part of the Deadly  
18                  Force Response Team, right?

19                  A           Yes.

20                  Q           You and every other member  
21                  contribute facts that are going to be  
22                  submitted to the Commissioner of Police,  
23                  right?

24                  A           The report that was submitted to  
25                  the Commissioner of Police was done by the

1                   Inspector Edmund Horace

2           team coordinator.

3                   Q           That ultimately one guy wrote  
4           the report -- John Hunter wrote the report,  
5           correct?

6                   A           I don't know.

7                   Q           You do recognize that you had a  
8           role, and that's why you responded, right?

9                               MR. FERGUSON:   He already  
10           testified several times to his role.  
11           Now, you're asking him if he recognizes  
12           he had a role.

13                   A           I responded because I was  
14           directed to respond.

15                   Q           After your conversation with  
16           DiLeonardo, what did you do?

17                   A           I walked out of his room.   I saw,  
18           I believe it was his girlfriend.   She was  
19           sitting outside.   I asked her how she's doing.  
20           She said, "Fine."

21                   Q           Ask you to take a look at  
22           Plaintiff's Exhibit 7.   I ask you if you  
23           recognize Plaintiff's Exhibit 7, to be Anthony  
24           DiLeonardo, the Officer that you spoke with at  
25           approximately 4:30 at the hospital?

1                   Inspector Edmund Horace

2                   A           I couldn't remember. I can't  
3 remember. I can't remember if that was him or  
4 not. It was over two years ago.

5                   Q           Sir, I'd ask you, also, during  
6 this time that you spoke to Officer  
7 DiLeonardo, did you observe him to have any  
8 physical injuries?

9                   A           I think he had some injury in one  
10 of his arms.

11                  Q           Could you describe that for me?

12                  A           I'm not sure exactly what it was.

13                  Q           Did he appear to be in any  
14 medical distress?

15                               MR. FERGUSON: Note my objection.

16                  A           I don't believe so.

17                  Q           I'm going to ask you, if you  
18 would, to flip through the following  
19 photographs, number 993 through 999.

20                               MR. GRANDINETTE: For the record  
21 photographs of Anthony DiLeonardo.

22                  A           Okay.

23                  Q           Now, do those photographs fairly  
24 and accurately reflect your observation of his  
25 physical condition on the night in question?

1                   Inspector Edmund Horace

2                   A           Like I said, he appeared to have  
3                   some sort of injury on one of his arms. I'm  
4                   not sure if it was -- I don't remember exactly  
5                   what it was. I can't tell you that accurately  
6                   reflects what happened that night. I couldn't  
7                   tell you that.

8                   Q           When you say injury to his arm;  
9                   you see on photograph 997 there's a cut with a  
10                  little bit of blood?

11                  A           Okay.

12                  Q           Is that what you're referring to?

13                  A           I don't remember.

14                  Q           You certainly didn't observe any  
15                  glaring physical injury?

16                               MR. FERGUSON: Note my objection.

17                  A           I observed, you know, some sort  
18                  of injury to one of his arms.

19                  Q           A scrape, an abrasion?

20                  A           I don't remember, to tell you the  
21                  truth.

22                  Q           Was he in any physical distress?

23                               MR. FERGUSON: Just asked that  
24                  question -- the exact same question two  
25                  minutes ago. We're going to be here all

1                   Inspector Edmund Horace

2                   night. You don't have the right to ask  
3                   the same questions over and over. You  
4                   have a right to ask questions. But, then  
5                   you're just repeating yourself. I  
6                   objected to it before. I object to it,  
7                   again.

8                   A           I don't remember what kind of  
9                   distress he was in.

10                  Q           So, you walk out of the room.  
11                  You speak to Anthony DiLeonardo's girlfriend?

12                  A           Yes.

13                  Q           Do you recall her name?

14                  A           No.

15                  Q           I'm assuming you didn't take any  
16                  notes of your conversation with Anthony  
17                  DiLeonardo, right?

18                  A           No.

19                  Q           When you went and left the room,  
20                  you're confident that the only two people in  
21                  that room at the time were Anthony DiLeonardo  
22                  and this unknown PBA rep?

23                  A           I believe so.

24                  Q           How long would you say you spoke  
25                  with his girlfriend?

1                                   Inspector Edmund Horace

2                   A           A minute or less.

3                   Q           Do you recall her name?

4                   A           No.

5                   Q           Did you record her name?

6                   A           No.

7                   Q           What did you say to her?

8                   A           I asked her, "How are you doing?"

9                   Q           Did you introduce yourself,  
10       first?

11                  A           Yes.

12                  Q           Did you introduce yourself as the  
13       Inspector?

14                  A           Inspector Horace.

15                  Q           Did you ask her any question --  
16       factual questions about what happened?

17                  A           No.

18                  Q           What did she say to you in  
19       response?

20                  A           She said "I'm all right."

21                  Q           Other than that, did you  
22       communicate anything else with her?

23                  A           No.

24                  Q           Did you observe any indication  
25       that she may have been drinking alcohol or

1                                   Inspector Edmund Horace

2           using drugs?

3                   A           No.

4                   Q           Is there any reason why you  
5           didn't inquire, factually, further of her  
6           about what happened preceding this incident?

7                   A           Because, like I said, because  
8           this is an ongoing investigation by Suffolk  
9           County.

10                  Q           Did you see any member of the  
11           Suffolk County Police Department up to that  
12           point in time interview Anthony DiLeonardo's  
13           girlfriend?

14                  A           No.

15                  Q           Was there any member of Nassau or  
16           Suffolk County Police Department near you when  
17           you interviewed this woman?

18                               MR. FERGUSON:   He didn't say he  
19           interviewed her.

20                  Q           Spoke to her.

21                  A           I don't think so.

22                  Q           To your knowledge, had anybody  
23           spoken to her up to this point in time?

24                  A           I don't know.

25                  Q           What did you do next?

1                                   Inspector Edmund Horace

2                   A           After that, I went over to Bienz.  
3           I believe Bienz was just being wheeled into  
4           his alcove area in the emergency room.

5                   Q           When you say alcove area, what do  
6           you mean?

7                   A           The emergency room has got those  
8           alcove ares where you have curtains around it.  
9           I believe he was being wheeled into one area  
10          there. And I went over to him, you know --  
11          asked "How are you doing?"

12                  Q           Would it be fair to say that you  
13          repeated the same thing you did with  
14          DiLeonardo; you introduced yourself?

15                  A           Yes.

16                  Q           You said "How are you doing?"

17                  A           I believe so, yes.

18                  Q           What did he say to you?

19                  A           I believe I said "I've been  
20          better."

21                  Q           Did you ask him any specific  
22          factual questions regarding the events of this  
23          night?

24                  A           No.

25                  Q           Why not?



1                   Inspector Edmund Horace

2                   A           Because it was an investigation  
3                   by Suffolk County.

4                   Q           Did you observe any member of the  
5                   Suffolk County Police Department interviewing  
6                   Mr. Bienz?

7                   A           I did not observe that.

8                   Q           Who was present while you had  
9                   this conversation with him?

10                  A           I believe there was a PBT  
11                  delegate there, also.

12                  Q           Do you recall his name?

13                  A           No.

14                  Q           Did you record any of this  
15                  information before, during, or after the  
16                  conversation?

17                  A           No.

18                  Q           Did you have an opportunity to  
19                  make any observation whether you believed he  
20                  ingested any alcohol or drugs?

21                  A           He was on the back board. He was  
22                  secured on the back board. I shook his hand  
23                  the best I could. I didn't smell any alcohol  
24                  or anything like that, or no slurred speech,  
25                  or anything of that nature.

1                   Inspector Edmund Horace

2                   Q           How about -- same question.  
3           Bloodshot eyes, slurred speech, odor of  
4           alcohol?

5                   A           I did not. I did not hear or see  
6           anything of that.

7                   Q           Did you make a conscientious  
8           assessment of whether or not he was fit for  
9           duty?

10                  A           Well, at that point in time I  
11           thought he was fit for duty.

12                   MR. FERGUSON: Other than that he  
13           was lying on a bed.

14                   THE WITNESS: Other than laying  
15           on a back board.

16                  Q           He was lying on a back board.  
17           Did you ask him was he in any physical  
18           distress?

19                   MR. FERGUSON: Note my objection.

20                  A           He said he's been better. I  
21           don't know whether he was in pain or not.

22                  Q           Did you ask any of the doctors,  
23           you know, whether he was okay.

24                  A           I did not speak to the doctors.

25                  Q           Did you ask Marinaci according to

1                   Inspector Edmund Horace  
2           the Deadly Force Response Team whose  
3           responsible to see for the medical care of  
4           these officers?

5                   A           I don't remember.

6                   Q           Both of these officers, by the  
7           way, walked out of the hospital on their own  
8           accord later on -- couple of hours later  
9           morning, right.

10                  A           Yes.

11                  Q           You saw them get into cars and  
12           exit cars and walk into the Second Precinct  
13           and sit down; they appeared to be fine,  
14           correct?

15                               MR. FERGUSON: Did you see that?

16                  A           I saw them at the Precinct. I  
17           saw them in the hospital. They eventually  
18           took the backboard off of Mr. Bienz. I didn't  
19           see them getting into cars or exiting cars.

20                  Q           You saw them at the Second  
21           Precinct?

22                  A           I saw them at the Second  
23           Precinct.

24                  Q           You were aware they were  
25           discharged?

1 Inspector Edmund Horace

|   |   |      |
|---|---|------|
| 2 | A | Yes. |
|---|---|------|

3 Q Did they appear to be in any  
4 apparent distress, whatsoever, at the Second  
5 Precinct, physically?

6 | A I don't think so.

7 Q I'm going to show you a series of  
8 photographs of Mr. Bienz taken that night or  
9 that morning at the Second Precinct.

10 MR. FERGUSON: He's representing  
11 that these are -- if you know of your  
12 own accord, you can so state. If you  
13 don't --

14           Q       Let me ask you this question,  
15       first.

16                   Looking at what has been marked  
17       as Plaintiff's Exhibit 8; do you recognize  
18       that mail?

19 | A No.

20 Q I'm going to show you photographs  
21 from the Nassau IAB report labeled 1000  
22 through 1003.

```
23         I'll ask you if you could flip
24     through those.  Here's 1004 and 5.
```

25 | Do these photographs accurately

1                   Inspector Edmund Horace  
2       reflect the physical appearance of Officer  
3       Bienz, including any physical injuries, as you  
4       observed him that night?

5               A       I didn't observe any injuries on  
6       him. Not that he didn't have any injuries.  
7       But, I did not observe anything.

8               Q       Did either one of these men  
9       appear to be seriously injured to you?

10                   MR. FERGUSON: Note my objection.

11              A       I wouldn't know. I'm not a  
12       medical person.

13              Q       You couldn't make that  
14       assessment?

15              A       No.

16              Q       Even though you saw him later  
17       that morning at the second Precinct you  
18       couldn't make assessment whether they were  
19       seriously injured?

20                   MR. FERGUSON: Note my objection.

21              A       I wouldn't know if they were  
22       injured or not.

23              Q       But, you didn't ask them, either,  
24       later that morning?

25              A       No, I did not.

1                                   Inspector Edmund Horace

2                   Q           How long was this conversation  
3 with officer Bienz?

4                   A           About a minute or so.

5                   Q           Other than the PBA rep, was  
6 anybody else present?

7                   A           I think that was it.

8                   Q           From at least up to this point in  
9 time -- up to about 4:30 -- whatever it is --  
10 did you ever see DiLeonardo and Bienz  
11 together?

12                  A           No. Only time I saw DiLeonardo  
13 and Bienz was when I saw them in that room  
14 there and Bienz in the other location. Prior  
15 to that, I didn't even see them at all.

16                  Q           Up to 4:30, you never saw them  
17 together, correct?

18                  A           Correct.

19                  Q           Did you ever see them in the  
20 hospital together speaking before you went to  
21 the Second Precinct later that morning?

22                  A           No, I don't think so.

23                  Q           What did you do after you spoke  
24 to Bienz?

25                  A           I believe his girlfriend was in

1                   Inspector Edmund Horace

2           -- his wife, I believe, was in close  
3           proximity. I asked her how she was doing.  
4           She said she was fine.

5           Q           How long was your conversation  
6           with her?

7           A           Very brief.

8           Q           So, when she said she was fine,  
9           that was in response to inquiry about her  
10          physical condition?

11          A           I believe so.

12          Q           That conversation was, again,  
13          about a minute?

14          A           Or less.

15          Q           Would it be fair to say you  
16          didn't inquire of her of any of the -- any  
17          factual account of what happened?

18          A           No, because there was an  
19          investigation by Suffolk County.

20          Q           I understand that that's your  
21          position.

22          A           Right.

23          Q           You affirmatively made a decision  
24          not to make any inquiry of either officer or  
25          Bienz' wife or DiLeonardo's girlfriend, right?

1                   Inspector Edmund Horace

2                   A           Because there was ongoing  
3                   investigation by Suffolk County.

4                   Q           I understand that. That's the  
5                   reason.

6                               But, what I'm saying to you is  
7                   you made a conscientious decision not to  
8                   inquire?

9                               MR. FERGUSON: Note any  
10                  objection.

11                  A           As per direction of a superior  
12                  Officer, Chief Hannon.

13                  Q           Your conversation with his  
14                  wife -- Bienz' wife -- did you notice an odor  
15                  of alcohol, any slurred speech, bloodshot  
16                  eyes, anything that would indicate she had  
17                  consumed alcohol?

18                  A           No.

19                  Q           Up to this point in time, had you  
20                  heard any member of the medical staff, doctor,  
21                  nurse, anybody, make a request to draw blood,  
22                  urine of any one of the officers?

23                  A           I never heard that.

24                  Q           Did you have a conversation with  
25                  Sergeant Marinaci about the physical well



1                   Inspector Edmund Horace

2           being or the medical condition of either  
3           Officer?

4                   A           I don't remember a conversation.  
5           I don't think -- like I said, it was very  
6           brief. It was about them being in X-ray. He  
7           said they were in X-ray. That's pretty much  
8           it.

9                   Q           So, after this initial  
10          conversation with him through the remainder of  
11          the night, you don't recall having any other  
12          conversations with Marinaci?

13                  A           I don't recall.

14                  Q           What time did you leave the  
15          hospital?

16                  A           It had to be 5:00-530ish.

17                  Q           Where did you go when you left?

18                  A           I went to the Precinct.

19                  Q           With who?

20                  A           I went alone. I was in my car.

21                  Q           What time would you say you got  
22          there?

23                  A           At the Precinct?

24                  Q           Yes.

25                  A           Six o'clock?

1                   Inspector Edmund Horace

2                   Q       When you arrived, was DiLeonardo  
3                   and Bienz there?

4                   A       I believe they were.

5                   Q       So, they left the hospital at or  
6                   about the time that you left?

7                   A       I believe so.

8                   Q       So, my next series of questions  
9                   are going to be centered between 4:30 a.m. and  
10                  5:30, the time that you left the hospital.

11                  Did you ever see in that next  
12                  hour DiLeonardo or Bienz together?

13                  A       I believe just before we left the  
14                  hospital, I believe they moved DiLeonardo from  
15                  that room to another area, you know, 2 or 3  
16                  beds away from Bienz.

17                  Q       In the same room?

18                  A       It's an open alcove.

19                  Q       Were they conversing?

20                  A       I don't think so. I don't  
21                  remember them conversing.

22                  Q       Was Bienz' wife and girlfriend --  
23                  did you ever see them together with -- was  
24                  Bienz' wife ever together with him at the  
25                  hospital?

1                   Inspector Edmund Horace

2                   A           With Bienz?

3                   Q           Right.

4                   A           I believe she was in close  
5           proximity to him when I saw him.

6                   Q           So, at 4:30. But, what I'm  
7           saying is after you had this brief  
8           introduction, was she with him the remainder  
9           of the evening until you left?

10                  A           I don't know.

11                  Q           How about Anthony DiLeonardo's  
12           girlfriend?

13                  A           I saw her in close proximity with  
14           him when they moved her out. But, I don't  
15           know whether she was with him the whole time.

16                  Q           There came a point in time you  
17           said they were within 2 or 3 beds of each  
18           other in this alcove?

19                  A           Yes.

20                  Q           Was Bienz' wife and DiLeonardo's  
21           girlfriend also present there?

22                  A           Yes.

23                  Q           I'm sure you weren't staring at  
24           him the whole time. But, did you have  
25           occasion to see them conversing at all?

1                           Inspector Edmund Horace

2                   A           I don't remember.

3                   Q           Do you recall any other police  
4           officers interviewing DiLeonardo or Bienz or  
5           the wife and girlfriend between 4:30 and  
6           5:30 a.m.?

7                   A           I don't recall.

8                               (Plaintiff's Exhibits 14 and 15  
9           so marked)

10                  Q           I'm going to show you what has  
11           been marked as Plaintiff's 14, stamped 987 in  
12           the Nassau County in IAB report. Ask you do  
13           you recognize that man?

14                  A           I don't.

15                  Q           I won't represent to you that  
16           that's Thomas Moroughan, the driver of the  
17           taxicab.

18                               Did you recall seeing him that  
19           evening at the hospital?

20                               MR. FERGUSON: Note my objection.

21                  A           No.

22                  Q           Sir, were you aware -- even  
23           though you don't recognize that photograph --  
24           did you become aware that the driver of the  
25           cab was also in the emergency room?

1                   Inspector Edmund Horace

2                   A        Yes.

3                   Q        And that he was being treated?

4                   A        I believe so.

5                   Q        Now, did you or any other Nassau  
6       County Police Officer, to your knowledge, ever  
7       speak to Mr. Moroughan?

8                   A        I did not. I don't know if  
9       anyone else did.

10                  Q        You were in the vicinity of the  
11       emergency room the entire evening, correct --  
12       from the time you arrived at 3 o'clock to the  
13       time you left about 5:30, right?

14                  A        Yes.

15                  Q        We can agree it's a relatively  
16       small area?

17                         MR. FERGUSON: What do you mean a  
18       small area? Objection. Talking about  
19       an emergency room. How does he know if  
20       he was confined to the emergency room.

21                         MR. GRANDINETTE: If you object,  
22       you object.

23                         MR. FERGUSON: It doesn't make  
24       any sense.

25                         MR. GRANDINETTE: Mike, stop,

1                   Inspector Edmund Horace

2                   please.

3                   MR. FERGUSON: Don't tell me to  
4                   stop. Your question is ridiculous.

5                   MR. GRANDINETTE: You're  
6                   testifying.

7                   MR. FERGUSON: I'm not  
8                   testifying.

9                   Have you established before this  
10                  that he had any knowledge of this  
11                  emergency room? How would he know.

12                 Q           Sir, you were at the emergency  
13                  room that night from 3:00 to 5:30, right?

14                 A           Yes.

15                 Q           Can we agree that the emergency  
16                  room within Huntington Hospital is a  
17                  relatively confined area?

18                 MR. FERGUSON: Objection.

19                 A           I don't know the size; how big it  
20                  is. Probably average size of an emergency  
21                  room, I imagine.

22                 Q           How many rooms were there in the  
23                  emergency room, if you know, to hold patients,  
24                  approximately?

25                 MR. FERGUSON: Objection.

1                   Inspector Edmund Horace

2                   A           I would have no idea.

3                   Q           Would it be fair to say that  
4           there's a nursing station?

5                   MR. FERGUSON:   Objection.

6                   A           Yes.

7                   Q           You recall the nursing station,  
8           right?

9                   A           I saw a station that looked like  
10          a nursing station.

11                  Q           There were medical personnel,  
12          such as nurses and doctors from time to time  
13          who were at the nursing station, right?

14                  A           I believe so.

15                  Q           They were performing their  
16          specific functions, as you would expect a  
17          doctor and nurse to do, right?

18                  A           I guess so.

19                  Q           That would include treatment of  
20          DiLeonardo, Bienz, the taxicab driver, right?

21                  A           I believe so.

22                  Q           In one of the rooms, you learned  
23          that there was the taxicab driver, who was  
24          also being treated, right?

25                  A           Well, I was told that the taxicab

1                   Inspector Edmund Horace  
2           driver was in the emergency room. I didn't  
3           know where he was in that particular emergency  
4           room.

5                   Q           Did you ever make an attempt to  
6           speak to him?

7                   A           No, I did not. And the reason  
8           being there was an active investigation.

9                               MR. FERGUSON: You don't have to  
10           give the reason. You didn't attempt to  
11           speak to him.

12                   Q           Again, did any member of the  
13           Suffolk County Police Department ever direct  
14           you not to speak to Thomas Moroughan or the  
15           occupants of the taxicab?

16                   A           No.

17                   Q           Did you ever ask to speak to any  
18           member of the Suffolk County Police Department  
19           who interviewed or who may have interviewed  
20           witnesses prior to leaving the hospital that  
21           night?

22                   A           No.

23                   Q           For example, you're saying here,  
24           "Tony, I didn't want to interfere with Suffolk  
25           P.D. so I didn't inquire personally, right?



1                   Inspector Edmund Horace

2                   MR. FERGUSON:   He said no.

3                   A           It wasn't our investigation.   It  
4                   was a Suffolk County investigation.   I felt  
5                   that it was inappropriate to interfere with  
6                   Suffolk County active investigation.

7                   Q           Did you ever ask any member of  
8                   the Suffolk County Police Department what  
9                   information they learned?

10                  A           No.

11                  Q           You didn't observe any member of  
12                  the Suffolk police interview DiLeonardo and  
13                  Bienz before leaving the hospital, correct?

14                  A           I don't remember.

15                  Q           You don't recall seeing anyone  
16                  interview Moroughan, correct?

17                  A           I don't even know where Moroughan  
18                  was, much less seeing him interviewed.

19                  Q           You came to learn that he was in  
20                  the emergency room getting treated, right?

21                  A           I was told that, correct.

22                  Q           At some point you had to pick up  
23                  your phone and call your superior officer to  
24                  fill her in on what was happening, right?

25                  A           I did that on a couple of

1                                   Inspector Edmund Horace

2           occasions, yes.

3                   Q           You reported facts regarding that  
4           night on several occasions from your cell  
5           phone to fill her in on what was happening  
6           with respect to the investigation, right?

7                   A           Like I said before, yes.

8                   Q           Now, even though you didn't see  
9           him, Moroughan, the cab driver; did you ever  
10          hear him?

11                  A           No.

12                  Q           Did you ever hear a -- anyone  
13          crying?

14                  A           Excuse me?

15                  Q           Did you ever hear anyone that  
16          night in the ER crying?

17                  A           It was a Saturday night ER. It  
18          was busy. There were a lot of people there.  
19          There could have been a lot of people crying  
20          or wincing in pain.

21                  Q           I'm not asking you to guess. I'm  
22          asking you, specifically; you have any  
23          recollection of anybody crying?

24                  A           I have no recollection.

25                  Q           Any recollection of anybody

1                   Inspector Edmund Horace

2           yelling out, "Why did they shoot me? Why did  
3           they shoot me?" Word to that effect?

4                   A           I have no recollection.

5                   Q           Do you have any recollection of  
6           anybody yelling out "I want to see my  
7           attorney. I want an attorney?"

8                   A           I have no recollection of that.

9                   Q           So, if I understand your  
10          testimony correctly, you left at 5:30 in the  
11          morning, and the only recollection you have of  
12          actually participating in any inquiry was a  
13          minute conversation each with Bienz,  
14          DiLeonardo, and their significant others?

15                               MR. FERGUSON: Note my objection  
16          as to the time periods.

17                   A           I spoke to those four  
18          individuals.

19                   Q           Do you recall seeing a female  
20          black about 45 years of age at the OR -- I  
21          mean the ER, emergency room.

22                   A           I don't recall.

23                               (Plaintiff's Exhibits 16 and 17  
24          so marked.)

25                   Q           I'm going to ask you to take a

1 | Inspector Edmund Horace

2 | look at what has been marked as 16 and 17.

3 Do you recognize seeing that  
4 woman in the ER that night?

5 | A I don't recall. Very bad  
6 | picture.

7 Q It's not a great picture, I

8 agree.

9                   A           Both are really bad pictures.   I  
10       can't make out the face with that one.   I  
11       don't recall.

12 Q In plaintiffs 17 -- it's a  
13 newspaper article -- and she's circled. And  
14 the caption reads "First black woman, the new  
15 deputy commissioner," correct?

16 | A Yes.

17 Q That published July 25, 2012,  
18 right?

|    |   |       |
|----|---|-------|
| 19 | A | Okay. |
|----|---|-------|

20 Q Did you ever come to learn that  
21 there was an Assistant District Attorney who  
22 subsequently was appointed to First -- as a  
23 Commissioner by Suffolk County PD in the  
24 emergency room that night?

25 MR. FERGUSON: How could he? It

1                   Inspector Edmund Horace

2                   didn't happen until a year later.

3                   How could he learn that in the  
4                   emergency room?

5                   MR. GRANDINETTE: I didn't ask  
6                   him in the emergency room.

7                   Q        You said you don't recall seeing  
8                   that woman. And although it was a bad  
9                   photograph -- I acknowledge that.

10                  MR. FERGUSON: You wanted to ask  
11                  him if there was an Assistant District  
12                  Attorney in the emergency room.

13                  MR. GRANDINETTE: That's not what  
14                  I wanted to ask him.

15                  Q        Do you recall subsequently  
16                  learning that there was an Assistant District  
17                  Attorney, who was later promoted to  
18                  Commissioner of Suffolk County Police  
19                  Department at the ER that night?

20                  A        Subsequent to what, though?

21                  MR. MITCHELL: Object to the  
22                  form.

23                  Q        After these events the night of  
24                  February 27th, did you come to learn that  
25                  there was a prosecutor from the Nassau County

1                   Inspector Edmund Horace

2           DA's Office present in the ER by the name of  
3           Risco Lewis.

4                   A           No. I don't understand your  
5           question you're trying to portray to me.

6                   Q           Did you ever come to learn that  
7           there was a DA -- a black female DA present in  
8           the ER on the night of February 27, in the  
9           early morning hours, 2011?

10                  A           During that night -- I don't  
11           remember who -- someone said to me there was a  
12           Nassau DA in the hospital. But, I don't  
13           remember what she looked like. I don't  
14           remember talking to her, or anything like  
15           that. But, I was informed that there was a  
16           Nassau DA somewhere in the emergency room.

17                               MR. FERGUSON: That's an  
18           Assistant DA.

19                               THE WITNESS: Assistant DA.

20                  Q           I'm going to show you what has  
21           been marked as Plaintiff's Exhibit 15. This  
22           is a computer-generated photograph. It's not  
23           the greatest photo in the world.

24                               Do you recognize that individual  
25           as being part of the medical staff at the

1                   Inspector Edmund Horace

2           hospital that was treating DiLeonardo?

3                   A           No, I don't recognize her.

4                   Q           While you were present in the ER  
5           from approximately 3:00 in the morning to 5:30  
6           in the morning, did you ever hear any member  
7           of the hospital staff requesting the removal  
8           of members of either Nassau or Suffolk Police  
9           Department from the ER?

10                  A           I don't remember that.

11                  Q           Do you ever recall a member of  
12           the hospital staff requesting to draw the  
13           blood or the urine of Anthony DiLeonardo?

14                  A           I don't remember that.

15                  Q           Do you ever recall a member of  
16           the hospital staff, specifically, stating that  
17           they want his blood because he is drunk?

18                  A           No, I don't remember that.

19                  Q           If such a request was made,  
20           according to your observations that would be  
21           directly contradictory to what you observed,  
22           right?

23                               MR. FERGUSON:  Objection.

24                               MR. MITCHELL:  Object to form.

25                  A           I don't get the question.

1                   Inspector Edmund Horace

2                   Q           In other words, you said you saw  
3           him. You spoke to him. You didn't see any  
4           signs of intoxication, right?

5                   A           Yes.

6                   Q           If somebody at the same ER that  
7           night said that they're obviously drunk, that  
8           would be completely inconsistent with your  
9           observation, right?

10                   MR. FERGUSON: Objection. Note  
11           my objection.

12                   A           Yes, it would be.

13                   Q           Now, before you left the  
14           hospital, did any member of the Suffolk County  
15           Police Department inform you that they were  
16           going to make an arrest in this case?

17                   A           Yes.

18                   Q           Was that the first time that you  
19           learned that there was going to be an arrest  
20           made?

21                   A           I believe so.

22                   Q           About what time was that?

23                   A           I don't remember. It was before  
24           we left the hospital.

25                   Q           So, what it was sometime closer



1                                   Inspector Edmund Horace

2           to 5:30?

3                   A           It was -- about a 5 o'clock.

4                   Q           Between 3 o'clock and 5 o'clock  
5           when you were at the hospital, no one ever  
6           said to you that anyone is in custody or under  
7           arrest regarding the event that transpired in  
8           this case, right?

9                   A           No, I don't remember any of that.

10                  Q           Did you see anybody in handcuffs?

11                  A           I don't believe so.

12                  Q           Do you recall speaking to a  
13           Sergeant William Lamb from the Suffolk County  
14           Homicide Bureau?

15                  A           I had a brief conversation with a  
16           supervisor. I don't know his name. That was  
17           the person that told me they were looking to  
18           make the arrest. They were making the arrest.  
19           And that was about 5:00 in the morning. I  
20           don't remember what the person's name was.

21                  Q           Now, would it be fair to say that  
22           based upon your presence at the OR up to this  
23           point in time when the supervisor told you  
24           that he was going to arrest the taxicab  
25           driver -- is that who he told you they were

1                   Inspector Edmund Horace

2           going to arrest?

3                   A           Yes.

4                   Q           It would be fair to say you never  
5           saw anybody interviewing DiLeonardo, Bienz, or  
6           their significant others from the Suffolk  
7           County Police Department?

8                   A           I did not see that.

9                   Q           You were present in the ER the  
10          whole time, right?

11                  A           But, I was not with them the  
12          whole time.

13                  Q           I'm not saying you were.

14                  A           I was somewhere in the ER.

15                          MR. MITCHELL:   Tony, can you just  
16          ask him -- because I'm gong to be  
17          leaving -- the fellow you mentioned  
18          supervisor -- if he was in plain clothes  
19          or uniform.

20                  Q           Was the supervisor in plain  
21          clothes or in uniform?

22                  A           I believe he was in plain  
23          clothes.

24                  Q           Did I ask you if you recognize a  
25          photograph?

1                   Inspector Edmund Horace

2                   A           Excuse me?

3                   Q           Would you recognize a photograph?

4                   A           I don't know.

5                   MR. GRANDINETTE:   If we can go  
6                   off the record for a second.

7                   (Whereupon, a discussion took  
8                   place off the record.)

9                   Q           Sir, how often do you have your  
10                  photo ID updated in the Nassau County Police  
11                  Department?

12                  A           I don't remember.   I know when we  
13                  get promoted you get an updated.   I'm not  
14                  sure.

15                  Q           When was your last updated  
16                  photograph?

17                  A           Actually, when I made Inspector,  
18                  a couple of years ago.

19                  Q           Couple of more questions about  
20                  the hospital.

21                  A           Okay.

22                  Q           Do you recall anyone,  
23                  specifically, requesting either blood or urine  
24                  to be drawn from either one of the officers?

25                  A           No, I don't recall.

Inspector Edmund Horace

Q Sir, if you were to have observed signs to suggest that the officers drank or used drugs, what would you -- what would your responsibilities be at that point in time?

MR. FERGUSON: Note my objection.

He didn't observe any signs of being drunk.

A I did not observe anyone drunk.

Q For the purpose of my question --  
I completely understand what your observations  
were.

What I'm saying to you is -- this is a hypothetical.

If you observed an off-duty officer who discharged his service revolver who appeared to be intoxicated by reason of alcohol or drugs, what would your responsibility be?

MR. FERGUSON: Same objection.

A            Like I said, I did not observe these officers. I can't answer that because I didn't observe that. I observed them to be normal.

Q This is a hypothetical question.

1                   Inspector Edmund Horace

2           That means it's make-believe.

3                   MR. FERGUSON:   If it's  
4           make-believe, objection to the form.

5           Q       We're changing the facts for  
6           purposes of the question.

7                   If you had observed an off-duty  
8           Officer who had discharged his revolver and  
9           you believed him to be either intoxicated or  
10          using drugs, what are your duties and  
11          responsibilities?

12          A       I can't answer a hypothetical  
13          question.   It's not relevant to this case.

14                  MR. FERGUSON:   Note my objection  
15          to the question.

16                  MR. GRANDINETTE:   We'll come  
17          back.   We'll get a ruling on that.

18          Q       Did you ever read the Deadly  
19          Force Response Team report in this case?

20          A       No, I did not.

21          Q       Did you contribute to any of its  
22          content?

23          A       Not to my knowledge.

24          Q       So, I'm assuming if you didn't  
25          read it or contribute to it, you didn't review

1                   Inspector Edmund Horace

2           it prior to its submission to the  
3           Commissioner?

4                   A           No, I did not.

5                   Q           Having never read it, would it be  
6           fair to say that you are not in a position to  
7           comment whether or not you agree with its  
8           consent and conclusions?

9                   A           I can't answer that because I  
10          never read it.

11                  Q           When you mentioned, earlier, that  
12          Chief Hunter -- John Hunter arrived at the  
13          hospital, right?

14                  A           Yes.

15                  Q           He was a member of the Deadly  
16          Force Response Team?

17                  A           Yes. He was actually the  
18          leader -- team leader.

19                  Q           What if anything did you recall  
20          Hunter saying or doing after his arrival?

21                  A           He said he said he was, you know,  
22          he was at the scene. He came from the scene.  
23          He did note that -- that the, you know, the  
24          occurrence looked like it was a proper, you  
25          know, proper shooting, proper situation. That

1                           Inspector Edmund Horace

2           was kind of it.

3                   Q           When did he say this, as soon as  
4           he arrived?

5                   A           Couple of minutes after he  
6           arrived.

7                   Q           That was prior to him speaking to  
8           DiLeonardo or Bienz?

9                   A           No. I think it might have been  
10          after.

11                  Q           What makes you think it was  
12          after?

13                  A           Because I think -- when he came  
14          in there, I believe -- I didn't see it, but I  
15          believe he went to see them right away.

16                  Q           Did he tell you that he  
17          interviewed them about what happened; that's  
18          why he is concluding it was proper?

19                  A           I don't remember that.

20                  Q           Did you ask him? Did you  
21          interview him about what happened?

22                  A           I did not ask him.

23                  Q           Is there any reason you didn't  
24          ask him?

25                  A           Because he is my superior

1                   Inspector Edmund Horace

2           Officer. He was the leader. He's the team  
3           leader. It was not my position to ask him  
4           what he did.

5                   Q           Did he give you any direction as  
6           to what to do?

7                   A           I asked him, "Do you need  
8           anything?" He said "No."

9                   Q           So, up to this point you don't  
10          know what time this is. But, up to this point  
11          in time -- other than responding and having a  
12          ten-minute conversation with Marinaci and  
13          these two uniformed cops -- you really didn't  
14          do an investigation? You didn't do anything,  
15          right?

16                           MR. FERGUSON: Note my objection  
17                   to the form of the question.

18                   A           Well, like I said, I visited the  
19          officers.

20                   Q           Other than that, you didn't  
21          engage in any active police work.

22                           MR. FERGUSON: Objection.

23                   A           I did not. Like I said before,  
24          because there was an active investigation by  
25          Suffolk County.



1                   Inspector Edmund Horace

2                   Q       Did you have any other  
3       conversation with Hunter?

4                   A       Like I said, I had a brief  
5       conversation with Hunter. I believe it was  
6       after he saw them. He said that everything  
7       looked good.

8                   Q       How long was that conversation?

9                   A       It was a couple of minutes.

10                  Q       When you say a couple of minutes;  
11       two minutes, five minutes?

12                  A       Two or 3 minutes.

13                  Q       Did you see Hunter interview the  
14       taxicab driver?

15                  A       No, I did not.

16                  Q       Did you see him interview any  
17       other witness?

18                  A       I don't remember.

19                  Q       Did you see Hunter speaking to  
20       any member of the Suffolk County Police  
21       Department at the hospital?

22                  A       I don't recall seeing him do  
23       that.

24                  Q       Whether uniformed or  
25       un-uniformed.

1                   Inspector Edmund Horace

2                   A           I don't recall.

3                   Q           How long would you say Hunter was  
4                   at the hospital?

5                   A           Until I left. I would say  
6                   45 minutes; something like that.

7                   Q           So, if you're accurate in the  
8                   time that you left -- you got there about  
9                   4:45?

10                  A           Maybe sooner than that.  
11                  Somewhere around 4:30 or something like that.

12                  Q           So, he could have been there an  
13                  hour, approximately?

14                  A           Could be.

15                               MR. FERGUSON: If you know, you  
16                               know. Don't speculate or guess.

17                  A           I don't know.

18                  Q           During the course of that hour,  
19                  what you observed him do was speak to  
20                  DiLeonardo and Bienz for a brief period?

21                  A           I didn't see that. I didn't see  
22                  him exactly do that during our conversation.

23                  Q           So, you concluded that he did  
24                  based upon your conversation with him?

25                  A           Yes.

1                   Inspector Edmund Horace

2                   Q       You concluded that that interview  
3 was a brief one?

4                   A       I don't know.

5                   Q       Do you know Sergeant DeMartinis?

6                   A       Yes.

7                   Q       He is with Nassau County Homicide  
8 Bureau, correct?

9                   A       Yes.

10                  Q       He was a member of the Deadly  
11 Force Response Team as well, correct?

12                  A       Yes.

13                  Q       He responded to the hospital that  
14 night, correct?

15                  A       Yes.

16                  Q       Can you tell me -- did you speak  
17 to him?

18                  A       Very briefly.

19                  Q       Let's first, if you would, check  
20 crime scene hospital log -- 13.

21                            Reviewing that, do you see  
22 Detective-Sergeant DeMartinis signed in?

23                            MR. FERGUSON: Objection. This  
24 is not a sign-in sheet.

25                  A       I don't sees anything there.

1                           Inspector Edmund Horace

2                   Q       Clearly he was there that night,  
3       right?

4                   A       Yes, I believe so.

5                   Q       So, you would acknowledge, sir,  
6       that there were members of the Nassau County  
7       Police Department present at the ER whose  
8       presence was not recorded on this scene log,  
9       Plaintiff's 13.

10                  A       Yes.

11                  Q       That scene log -- at least  
12       records members of Suffolk and Nassau's  
13       arrival between approximately 1:20 and 8:50 in  
14       the morning, correct?

15                  A       That's what it says.

16                           MR. GRANDINETTE:  If we could  
17       have this marked as Plaintiff's 18.

18                                   (Plaintiff's Exhibit 18 marked)

19                  Q       Plaintiff's 18 is a list of  
20       people who were present at the hospital on  
21       2/27/11.

22                           I just want to go over with you  
23       the list of Nassau County PD.  You recall  
24       seeing John Hunter there, right?

25                  A       Yes.

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1 Inspector Edmund Horace

2 | Q Of course, you were there.

3 | How about Captain Daniel

4 | Flanagan?

5 | A Yes. I recall seeing him.

6 Q Daniel Flanagan is a member of  
7 the Deadly Force Response Team, too, as well,  
8 correct?

9 A Yes.

10 Q Then John DeMartinis from  
11 homicide; he was there, correct?

|    |   |      |
|----|---|------|
| 12 | A | Yes. |
|----|---|------|

13 Q We talked about Timothy Marinaci,  
14 right?

|    |   |      |
|----|---|------|
| 15 | A | Yes. |
|----|---|------|

16 Q He is the Sergeant from the Third  
17 Precinct?

18 | A Yes.

19 Q Can you tell me what, if  
20 anything, you observed John DeMartinis do  
21 after he arrived at the hospital?

22                   A           I couldn't tell you that.  I did  
23           see him briefly.  But, I don't know what he  
24           did after he got there.

25 Q Did you speak to him at all?

1                   Inspector Edmund Horace

2                   A           Very briefly.

3                   Q           When you say "very briefly," how  
4           long is that?

5                   A           It had to be less than a minute.

6                   Q           Did you see him interview anyone  
7           or speak to any Suffolk County -- first of  
8           all, did you see him interview anybody?

9                   A           I don't remember.

10                  Q           Did you see him speak to any  
11           Suffolk County police officers, either plain  
12           clothes or not?

13                  A           I don't remember.

14                  Q           Do you know what time he left the  
15           hospital?

16                  A           I don't know.

17                  Q           You don't know when he arrived  
18           and when he departed?

19                  A           No.

20                  Q           Daniel Flanagan -- he was a  
21           member of the Deadly Force Response Team, too,  
22           correct?

23                  A           Correct.

24                  Q           Do you know when he arrived at  
25           the hospital?

1 Inspector Edmund Horace

2 | A No.

3 Q Do you know what time he left?

4 | A No, I don't.

5 Q Did you have any conversation  
6 with him?

|   |   |                          |
|---|---|--------------------------|
| 7 | A | Very brief conversation. |
|---|---|--------------------------|

|   |   |                                 |
|---|---|---------------------------------|
| 8 | Q | How long was that conversation? |
|---|---|---------------------------------|

9 | A Less than a minute.

10 Q Do you recall the content of the  
11 conversation?

12 | A No, I don't.

13 Q Do you know if he had any more  
14 factual information than you did about the  
15 case?

16 MR. FERGUSON: Note my objection.

17 | A I don't know.

18 Q Same thing with DeMartinis; did  
19 he have any more factual information?

20 MR. FERGUSON: He can't tell you  
21 what's in somebody else's mind. That's  
22 what you're asking him. Objection to  
23 the question.

24 Q I'm asking you --

25 MR. FERGUSON: You're asking what

1 | Inspector Edmund Horace

2           somebody else had more information than  
3           him.

4                   Q           Based upon your conversation with  
5       John DeMartinis, did he communicate anything  
6       to you that he had some personal knowledge  
7       based upon investigation about what happened  
8       here?

9                   A           I don't remember.   I don't  
10       believe so.

11 Q So, if these five people:  
12 Hunter; Horace, yourself; Flanagan;  
13 DeMartinis; are members of the Deadly Force  
14 Response Team, right, saddled with the duty of  
15 responsibility of ascertaining the facts  
16 regarding the incident, can you tell me who  
17 was it that interviewed the relevant parties  
18 here?

19 MR. FERGUSON: Note my objection.

20 | A I don't recall. I don't know.

21 Q Do you know if any interviews  
22 were conducted to ascertain what the facts  
23 were?

24                   A           I don't know.

25 MR. FERGUSON: Note my objection.



1 Inspector Edmund Horace

2 Q Who's the highest ranking officer  
3 there?

4 A Deputy Chief Hunter in Nassau  
5 County.

6 Q Now, according to this list that  
7 we've marked as Plaintiff's 18, there appears  
8 to be 14 members of the Suffolk County Police  
9 Department and nine members of Nassau County  
10 PD, right? Seven members of the Homicide  
11 Bureau, correct -- Suffolk County Homicide  
12 Bureau?

13 A Yes.

14 Q And two civilians, right?

15 A Okay.

16 MR. FERGUSON: We have to be out  
17 of here in five minutes.

18 Q We have about 30 police officers  
19 present.

20 To your knowledge, did you see  
21 anyone of the 30 officers sit down and have a  
22 Q and A with either Bienz or DiLeonardo before  
23 you left the hospital?

24 MR. FERGUSON: Note my objection.

25 A I have no knowledge of that.

1                                   Inspector Edmund Horace

2                   Q           Did you see anybody questioning  
3                   them and writing something down on a pad?

4                   A           I don't remember that.

5                   Q           So, when you left, would it be  
6                   fair to say that it was your belief that no  
7                   one had sat down and had a detailed Q and A  
8                   with anyone of the officers or their  
9                   significant others concerning the facts of  
10                  this case?

11                               MR. FERGUSON: Note my objection.

12                  A           I don't know. I didn't see that.  
13                  I don't know whether that happened or not.

14                  Q           Can you tell me after you left  
15                  the hospital, what happens next?

16                  A           I went to the Precinct. I drove  
17                  to the Precinct.

18                  Q           You went there alone, correct?  
19                  You said I think you got there about 6:00?

20                  A           Yes. I'm not sure of the exact  
21                  time.

22                  Q           I'm not going to hold you to the  
23                  exact time.

24                               When you get there, what do you  
25                  do?

1                   Inspector Edmund Horace

2                   A           I walked inside.

3                   Q           What happened next?

4                   A           I believe, you know -- I believe  
5           I got there after the other people that were  
6           there, Bienz and the other fellow, DiLeonardo.  
7           So, you know, I think they were there already.  
8           I believe after that, you know, we were  
9           escorted into the back in the area where the  
10          detectives were in the Precinct.

11                  Q           Did you have to sign in?

12                  A           I don't remember.

13                  Q           When you're brought into the  
14          back, you said "We."   Who's we?

15                  A           There was -- it was myself.  
16          There was, I believe DiLeonardo, Bienz.   I  
17          believe their respective wives and  
18          girlfriends.   I believe John Hunter was there.  
19          I remember John Hunter was there.   I'm not  
20          sure he got there after I was there.

21                  Q           How about the PBA reps?

22                  A           I believe there were PBA reps  
23          there.

24                  Q           Do you see the reference to a PBA  
25          attorney there, William Miller?

1                                   Inspector Edmund Horace

2                   A           Yes.

3                   Q           He was at the hospital; you  
4       recall seeing him?

5                   A           I recall seeing him at the  
6       hospital.

7                   Q           Do you know him?

8                   A           I do know him.

9                   Q           You guys say hello?

10                  A           Brief conversation.

11                  Q           Did you have any official duty  
12       conversation? Did he ever say, "Hey, I don't  
13       want anybody interviewing cops"?

14                  A           No.

15                  Q           They have an obligation, in fact,  
16       do they not, to disclose, to talk to  
17       investigators from Nassau concerning the  
18       shooting?

19                               MR. FERGUSON: Objection.

20                  Q           They have a obligation, do they  
21       not, to discuss?

22                  A           I don't know.

23                  Q           At any rate, Bill wasn't there as  
24       an obstructionist? He didn't say you can't  
25       talk to them?

1                           Inspector Edmund Horace

2                   A           No.

3                           MR. FERGUSON:   Note my objection.

4                   Q           There's a bunch of people from  
5   Nassau County Police Department that you  
6   describe at the Precinct.   What happens next?

7                   A           I believe Suffolk County  
8   interviewed them.   Suffolk detectives, I guess  
9   it was, interviewed, you know, DiLeonardo,  
10   Bienz, and I guess their wives and  
11   girlfriends.

12                  Q           Were you present during these  
13   interviews?

14                  A           No, I was not.

15                  Q           Where were you when these  
16   interviews were taking place?

17                  A           I was in a different room.

18                  Q           When you first got there, did you  
19   all go into one room and then somebody come in  
20   and introduce themselves; how did this all  
21   happen?

22                  A           Actually, I believe they were in  
23   one room, and I was in a room next door or a  
24   hallway area.

25                  Q           Who's they?

1                   Inspector Edmund Horace

2                   A           The four individuals; Bienz,  
3                   DiLeonardo, and the two girls.

4                   Q           So, they're in a room within the  
5                   Second Precinct?

6                   A           Correct.

7                   MR. FERGUSON: We have to leave,  
8                   gentlemen. This deposition is over.

9                   MR. GRANDINETTE: All right. We  
10                  have to continue.

11                  MR. FERGUSON: They told me we  
12                  have to be out at 5:15. It's 5:15.  
13                  This is a different section of the  
14                  office.

15                  MR. GRANDINETTE: I get it.

16                  MR. FERGUSON: They said we can't  
17                  be here when they're not here.

18                  MR. GRANDINETTE: That's fine.

19                  Thank you for your time and  
20                  patience.

21                  THE WITNESS: Thank you.

22                  (Time noted: 5:15 p.m.)  
23  
24  
25

A C K N O W L E D G M E N T

STATE OF NEW YORK     )  
                                      : ss  
COUNTY OF NASSAU     )

I, EDMUND HORACE, hereby certify  
that I have read the transcript of my  
testimony taken under oath in my deposition of  
February 21, 2013; that the transcript is a  
true, complete and correct record of my  
testimony, and that the answers on the record  
as given by me are true and correct.

-----  
EDMUND HORACE

Signed and subscribed to before  
me, this                   day  
of                                 , 2013.

-----  
Notary Public, State of New York

-----I N D E X-----

| WITNESS       | EXAMINATION BY      | PAGE |
|---------------|---------------------|------|
| EDMUND HORACE | ANTHONY GRANDINETTE | 4    |

DIRECTIONS: None

RULINGS: None

MOTIONS: None

-----DOCUMENT REQUEST-----

None

-----INFORMATION TO BE FURNISHED-----

None

-----EXHIBITS-----

| <u>PLAINTIFF'S</u> | <u>FOR I.D.</u> |
|--------------------|-----------------|
|--------------------|-----------------|

|   |                                    |
|---|------------------------------------|
| 1 | Police Department training record. |
|---|------------------------------------|

|    |                      |
|----|----------------------|
| 12 | Department Procedure |
|----|----------------------|

|    |           |
|----|-----------|
| 13 | Scene Log |
|----|-----------|

|    |                           |
|----|---------------------------|
| 14 | Photo of Thomas Moroughan |
|----|---------------------------|

|    |                         |
|----|-------------------------|
| 15 | Photo of Dr. Kurakowski |
|----|-------------------------|

|    |                      |
|----|----------------------|
| 16 | Photo of Risco Lewis |
|----|----------------------|

|    |                                 |
|----|---------------------------------|
| 17 | Newspaper story re. Risco Lewis |
|----|---------------------------------|

|    |                            |
|----|----------------------------|
| 18 | List of people at hospital |
|----|----------------------------|

| <u>DEFENDANT'S</u> | <u>FOR I.D.</u> |
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|      |  |
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| None |  |
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C E R T I F I C A T E

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

I, RICH MOFFETT, a Notary Public  
within and for the State of New York, do  
hereby certify:

That EDMUND HORACE, the witness  
whose deposition is hereinbefore set  
forth, was duly sworn by me and that  
such deposition is a true record of the  
testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 21st day of  
February, 2013.

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RICH MOFFETT

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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